

WESTERN HEMISPHERE

ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a bicameral legislative assembly compose the Government. A Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. Prime Minister Lester B. Bird's Antigua Labour Party (ALP) has controlled the Government and Parliament since 1976. In the 1999 elections, which observers described as free but not fair, the ALP retained power by winning 12 of 17 parliamentary seats. The Governor General appoints the 15 senators in proportion to the parties' representation in Parliament and with the advice of the Prime Minister and the leader of the opposition. The judiciary is generally independent.

Security forces consist of a police force and the small Antigua and Barbuda Defense Force. The police are organized, trained, and supervised according to British law enforcement practices. There were reports of occasional instances of excessive use of force by the police and prison guards.

The country has a population of approximately 71,500 and a mixed economy with a strong private sector. Tourism is the most important source of foreign exchange earnings, but it declined during the year, largely because the country has been struck by seven hurricanes since 1995, which severely damaged many of the country's hotels. The country is burdened by a large and growing external debt, which remains a serious economic problem. At the end of 2000, the external debt was estimated at \$440.9 million, compared with \$417.7 million at the end of the previous year. The pace of economic expansion slowed to 3.5 percent in 2000 from 5.2 percent in 1999. The unemployment rate was 8 percent as of September. Per capita gross domestic product was about \$9,720 in 2000.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports of police brutality against demonstrators. Prison conditions were poor, and there were allegations of abuse of prison inmates. Opposition parties complained that they received limited coverage or opportunity to express their views on the government-controlled electronic media; however, in April an independent radio station began to broadcast. Societal discrimination and violence against women continued to be problems.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the authorities generally respected these prohibitions in practice; however, there were occasional reports of police brutality and threatening behavior and allegations of abuse by prison guards.

In July there were complaints that police used batons and tear gas to break a blockade in Old Village, injuring 15 persons (see Section 2.b.).

Prison conditions are poor. Conditions at the lone, 18th century prison considerably worsened when a fire destroyed most of the facility in 1999. Prisoners allegedly started the fire to protest random searches by prison guards. Conditions at the prison have remained unsettled since the fire. All prisoners are back in the compound, but repairs and renovations still were not completed at year's end. The prison remained overcrowded, with approximately 150 prisoners. Pretrial detainees are held together with convicted prisoners. Prison conditions are unsanitary and inadequate, particularly in regard to food, recreation, and rehabilitation. The Government estab-

lished a Rehabilitation Center in 2000 for prisoners found guilty of committing minor crimes; it held 24 male prisoners at year's end.

The authorities established a local review board to hear prisoner complaints and to monitor progress at the prison, but government officials and concerned private individuals agreed that problems are likely to continue until funds can be found to build a new prison outside the city precincts.

The women's prison facility is separate and has not experienced the problems encountered in the men's prison. There is no separate facility for juveniles, who are housed with adult inmates.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally respects these prohibitions in practice.

Criminal defendants have the right to a judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention. However, members of the opposition United Progressive Party (UPP) insisted that there have been instances where this has been violated, particularly on Thursdays or Fridays. They claimed that several persons were detained during the year without charge for more than 48 hours and that increasingly, arresting and detention officers were unavailable to arrange bail or to expedite the process of releasing detainees.

The law prohibits forced exile, and the Government does not use it in practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The Constitution designates the Privy Council in London as the final court of appeal, which always is employed in the case of death sentences. There are no military or political courts.

The Constitution provides that criminal defendants should receive a fair, open, and public trial. In capital cases only, the Government provides legal assistance at public expense to persons without the means to retain a private attorney. Courts can reach verdicts quickly, with some cases coming to conclusion in a matter of days.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and government authorities generally respect these prohibitions in practice. Violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech, of the press, and other forms of communication, and the authorities generally respect these provisions in practice. Privately owned print media, including daily and weekly newspapers, are active and offer a range of opinion, often publishing vigorous criticism of the Government. However, the Government has restricted opposition parties' access to electronic media, effectively denying them equal coverage.

The Government owns one of the two general interest radio stations and the single television station. A religious station broadcasts without impediment. One of the Prime Minister's brothers owns the second radio station, and another brother is the principal owner of the sole cable television company. The government-controlled media report regularly on the activities of the Government and the ruling party but limit their coverage of and access by opposition parties. In April the country's first independent broadcast media, the Observer radio station, became operational. This radio station, operated by the owners of the Observer newspaper, is accessible to political and religious groups of all persuasions, and is utilized occasionally by the Government. The opposition accused the Government of trying to marginalize the Observer radio station by refusing to grant it duty free concessions; ZDK Radio, which is owned by members of the Prime Minister's family, receives such concessions. The opposition UPP, which publishes the Crusader newspaper, also applied for and received a radio license during the year.

The Government continues to restrict the opposition's access to the media, and there continue to be allegations of censorship as the result of subtle coercive pressure by influential persons. The 1999 report of the Commonwealth observer group that monitored the general elections noted that the governing ALP party received the greatest share of political coverage by the government-controlled electronic media. The report also indicated that fair and equal access to publicly owned electronic media did not appear to be available to opposition party figures.

At year's end, the police still had not issued an official report on their investigations into three possible arson attacks in 1998; no report is expected. An arsonist

destroyed an opposition newspaper; a fire of suspicious origin badly damaged the Ministry of Information; and the UPP's outdoor convention site mysteriously was set on fire.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly. The police generally issue the required permits for public meetings but sometimes deny them in order to avert violent confrontations. While the authorities had placed some restrictions on demonstrations in the past, the opposition held numerous rallies and public meetings to promote its platform during the year. Police intervened in several demonstrations during the year.

In July residents of Bendals, a community bordered on three sides by quarries, engaged in demonstrations protesting threats to public health stemming from the quarries' operations. Residents cited increased numbers of persons with asthma and a serious injury to a young girl when a rock blasted from the quarry fell into a schoolyard. Police intervention led to the arrest and detention of several persons protesting continued operation of the quarry, on charges including obstruction, resisting arrest, and assault and battery. The charges against the protesters remained in the courts at year's end.

In July residents of the Old Road Village community barricaded streets in an effort to stop the construction of 11 beachfront units at the Carlisle Bay Resort. Approximately 100 citizens of the community blocked the streets and stoned trucks in the attempt to stop construction. The protesters alleged that the development would destroy the mangrove swamps, which are of environmental importance to the local fishing community, and lead to beach erosion and flooding. The police broke the blockade with tear gas and arrested three of the demonstrators, charging them with damage to property. It was alleged that the police also attacked several demonstrators with batons and injured 15 persons (see Section 1.c.). In September the Government reached a settlement with the protesters, which required the hotel owner to take down 7 of the 11 foundations, leaving 4 in place. However, residents continued to protest, insisting that the four remaining foundations had to be removed. In October the four structures were set on fire by unknown individuals, leading to police intervention and several arrests.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. However, it is not clear whether such complaints reflect discrimination on the basis of religious belief by the authorities or simply enforcement of the laws against marijuana, which is used as part of Rastafarian religious practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respects them in practice.

The Government assesses all claims by refugees under the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for a multiparty political system accommodating a wide spectrum of political viewpoints. All citizens 18 years of age and older may register and vote by secret ballot. The Constitution requires general elections at least every 5 years; the last general elections were held in 1999. The law obligates the Government to hold voter registration during a fixed period (of only 1 week) each year, and parties conduct their own registration drives free of government interference.

Except for a period in opposition from 1971–76, the Antigua Labour Party has held power continuously since 1951. The opposition has charged that the ALP's longstanding monopoly on patronage and its influence over access to economic opportunities make it extremely difficult for opposition parties to attract membership and financial support. In 1992 public concern over corruption in government led to the merger of three opposition political parties into the UPP.

In the 1999 elections, the ALP retained power by winning 12 of 17 parliamentary seats, 2 more than it had won in the previous elections in 1994. The Governor General appoints the 15 senators in proportion to the parties' representation in Parliament and with the advice of the Prime Minister and the leader of the opposition.

The Commonwealth observer group that monitored the elections reported irregularities in the electoral process and assessed the elections as free but not fair. The report indicated that the voters' register stood at 52,348 voters, of a total population of approximately 69,000 persons. Since 40 percent of the population were estimated to be below voting age, the voting rolls appeared to be inflated. According to the observer group, the voter registration period, which is limited to only a week every July, appeared too restrictive and potentially disfranchises citizens, such as persons who would reach the voting age of 18 after July but before the elections. The observer group also recommended the establishment of an independent electoral commission to improve the voter registration process. The July 1 to 7 registration period was postponed to allow for the implementation of an amended act that provides for the year-round registration of electors and the introduction of an independent electoral commission to manage, oversee, and control the entire electoral process. Parliament approved the amendments, but the new provisions had not yet been implemented at year's end.

There are no impediments to participation by women in government and politics; however, the percentage of women in government and politics does not correspond to their percentage of the population. No women have been elected to the House of Representatives. Two women are senators, which are appointed positions. In May the Prime Minister appointed a woman to be Attorney General; 8 of the 14 permanent secretaries (the top civil servant positions in ministries) are women.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no governmental restrictions on the formation of local human rights organizations. The Antigua and Barbuda Human Rights Association has been active for 2 years. It represents individuals and groups who claim that their rights have been violated.

The Government's Ombudsman has reviewed an increasing number of cases annually. The Ombudsman is chosen by both houses of Parliament upon recommendation of the Prime Minister; the term is unlimited. The office of the Ombudsman operates independently of the judiciary and the Director of Public Prosecutions (DPP); however, recommendations for trial must be approved by the DPP. The Ombudsman, Hayden Thomas, reported that 90 percent of the cases he recommended are prosecuted. The Ombudsman's office has the authority to pursue a recommendation for trial through the ministry involved, directly with the Prime Minister, and ultimately may take the matter to Parliament. The Ombudsman makes recommendations to the Government based on investigations into citizens' complaints; however, his recommendations often are not implemented to the satisfaction of alleged victims of government abuse and injustice.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits discrimination based on race, sex, creed, language, or social status, and the Government generally respected these provisions in practice; however, violence against women is a problem.

Women.—Violence against women is treated as a matter of public concern, and there are nongovernmental social welfare groups focused on the problem. Women in many cases are reluctant to testify against their abusers. The law prohibits and provides penalties for domestic violence, as well as rape and other sexual offenses. Police generally refrain from intervening in cases of domestic violence, and some women have charged credibly that the courts are lenient in such cases. Organizations such as the Government's Directorate of Women's Affairs seek to increase women's awareness of their rights under the law in cases of domestic violence. There are a number of active nongovernmental organizations that address issues affecting women.

Prostitution is prohibited, but it is a problem.

Sexual harassment is illegal, but it is rarely prosecuted.

While the role of women in society is not restricted legally, economic conditions tend to limit women to home and family, particularly in rural areas, although some women work as domestics, in agriculture, or in the large tourism sector. Although the Government pledged to provide better family planning services, educational opportunities, and job training, it has been slow to implement new programs. The Directorate of Women's Affairs exists to help women advance in government and the professions, but there has been little progress.

The Professional Organization for Women of Antigua (POWA) is a networking and resource group for female executives. It held a number of educational seminars for girls and an interactive career exhibition during the year.

Children.—While the Government repeatedly has expressed its commitment to children's rights, its efforts to protect those rights in practice have been limited. The Government provides education for children through the age of 16; it is free, universal, and compulsory. Children have access to health care and other public services.

Child abuse remains a problem. In August the police uncovered a child pornography and prostitution ring, and high-ranking members of society reportedly were implicated. Newspaper and POWA reports indicated that fines for those arrested were extremely low, and that all arrested offenders, except for a Jamaican citizen, were released on bail. Several alleged offenders reportedly were allowed to leave the country permanently, while prosecution generally appeared to be sporadic and halfhearted. The opposition UPP called for a full and thorough investigation, but observers claimed that there was an effort to cover up the incidents, rather than to prosecute in accordance with existing legislation for the protection of minors.

Despite pledges to do so, the Government has not established a committee on children's rights or strengthened monitoring and implementation of the U.N. Convention on the Rights of the Child. UNICEF helped support a study of the needs of children and families, and its recommendations are being used to develop a National Plan of Action on Child Survival, Development, and Protection.

Persons with Disabilities.—No specific laws mandate accessibility for persons with disabilities, but constitutional provisions prohibit discrimination against the physically disabled in employment and education. There is no evidence of widespread discrimination against persons with disabilities, although the Government does not enforce the constitutional antidiscrimination provisions.

Section 6. Worker Rights

a. The Right of Association.—Workers have the right to associate freely and to form labor unions. Approximately 75 percent of workers belong to a union, and the hotel industry is heavily unionized. There are two major trade unions: The Antigua Trades and Labour Union (ATLU) and the Antigua Workers' Union (AWU). The ATLU is associated with the ruling ALP, while the larger and more active AWU is allied rather loosely with the opposition.

The Labor Code recognizes the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Workers who provide essential services (including bus, telephone, port, and petroleum workers, in addition to health and safety workers) must give 21 days' notice of intent to strike. Once either party to a dispute requests that the court mediate, there can be no strike. Because of the delays associated with this process, unions often resolve labor disputes before a strike is called. There were no significant strikes during the year.

Unions are free to affiliate with international labor organizations, and they do so in practice.

b. The Right to Organize and Bargain Collectively.—Labor organizations are free to organize and bargain collectively. The law prohibits antiunion discrimination, and there were no reports that it occurred. Employers found guilty of antiunion discrimination are not required to rehire employees fired for union activities but must pay full severance pay and full wages lost by the employee from the time of firing until the determination of employer fault. There are no areas of the country where union organization or collective bargaining is discouraged or impeded.

There are no export processing zones, but there are free trade zones that facilitate services such as international banking and gambling. The Labor Code applies equally to workers in these zones as elsewhere in the country.

c. Prohibition of Forced or Compulsory Labor.—The Constitution forbids slavery and forced labor, including that by children, and they do not exist in practice.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law stipulates a minimum working age of 16 years, which corresponds with the provisions of the Education Act. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforces this law. The Labor Commissioner's Office also has an Inspectorate that investigates exploitative child labor matters. There were no reports of minimum age employment violations during the year. The Government has not ratified the International Labor Organization's Convention 182 on the elimination of the worst forms of child labor. The law prohibits forced or bonded child labor, and it does not exist in practice (see Section 6.c.).

e. Acceptable Conditions of Work.—Minimum wage rates, which were established by law for various work categories in 1981, have never been revised and generally are viewed as irrelevant to existing economic conditions. The Ministry of Labor periodically surveys average wages paid in various sectors and issues these as guidelines to prevailing market wages. The guidelines are not compulsory. The Ministry provides them to reflect increasing wage expectations, and to offset not having yet

updated the 1981 minimum wage rates. In 1999 the guidelines indicated that employers pay an average salary of \$93.63 (EC\$250) per week, although the range of actual salaries varies widely, depending on skill level and experience. The existing published minimum wages for a variety of jobs would not provide a decent standard of living for a worker and family, and in practice the great majority of workers earn substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, 6-day workweek, but in practice the standard workweek is 40 hours in 5 days. The law stipulates that workers receive a minimum of 12 days of annual leave. The law requires employers to provide maternity leave with 40 percent of wages for 6 weeks of leave, while social service programs provide the remaining 60 percent of wages. The employer's obligation ends after the first 6 weeks, but social services continue to pay 60 percent of wages for an additional 7 weeks, for a total of 13 weeks.

The Government has not yet developed occupational health and safety laws or regulations, but a section of the Labor Code includes some provisions regarding occupational safety and health. Plans to incorporate comprehensive legislation on safety, health, and the welfare of workers into the existing Labor Code have not been implemented. Although not specifically provided for by law, workers may leave a dangerous workplace situation without jeopardy to continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

ARGENTINA

Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. In 1999 voters elected President Fernando de la Rúa in generally free and fair elections. After major protests in December, President de la Rúa resigned and was succeeded briefly by three interim presidents before the Legislative Assembly elected Eduardo Duhalde to serve out the remainder of the de la Rúa term. The judiciary is generally independent but is inefficient, underfunded, and subject at times to intimidation and political influence.

The President is the constitutional commander-in-chief, and a civilian Defense Minister oversees the armed forces. Several agencies share responsibility for maintaining law and order. The Federal Police (PFA) report to the Interior Minister, as do the Border Police ("Gendarmeria") and Coast Guard. The PFA also has jurisdiction in the Federal Capital and over federal crimes in the provinces. Provincial police are subordinate to the respective governor. Federal and provincial police forces and federal prison guards continued to commit human rights abuses.

The country has a population of approximately 36,027,000 and a mixed agricultural, industrial, and service economy. In 1998 following several years of economic growth during an economic reform and structural adjustment program, the economy slowed and entered a recession. As the recession continued through the year, unemployment rose to 18.3 percent and more of the population fell into poverty. Income disparities remain a serious problem; the wealthiest 10 percent of the population received 36.9 percent of total personal income, while the poorest 10 percent received 1.5 percent of total personal income during the year. Per capita gross domestic product was \$7,613 during the year, compared with \$7,980 in 2000. Prices fell 1.4 percent during the year, compared with 0.7 percent during 2000. The Argentine peso was linked to the dollar at the rate of 1 peso equals 1 dollar through a convertibility system.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police continued to commit extrajudicial killings. Torture and brutality by police and prison guards were serious problems. In some cases the authorities investigated and sanctioned those responsible for abuses, but impunity is a problem. Police corruption is a problem. Prison conditions are poor. Police arbitrarily arrested and detained citizens, and lengthy pretrial detention is a problem. There were credible allegations of efforts by members of the security forces to intimidate the judiciary, witnesses, and local human rights groups. The press is free and vigorous; however, public officials harassed and threatened journalists on occasion. Police used excessive force against demonstrators on several occasions. Violence and discrimination against women also are problems. Child abuse and child prostitution are not widespread, although prosecutions demonstrate they exist. Anti-Semitism is a problem; however, the Government took steps to combat it. Discrimination against indigenous people persists. Discrimination against re-

ligious and racial minorities and foreign nationals persists. Child labor is a problem. There were reports that women, and unconfirmed reports that children, were trafficked into the country.

The judiciary continued to work through the legacy of human rights abuses of the “dirty war” of the 1976–83 military regime. Former military officers are being prosecuted for kidnaping the children and taking the property of dissidents, and there were several convictions. Two federal judges found the “full stop” and “due obedience” military amnesty laws to be unconstitutional. Judges pursued truth trials in an effort to force the military to provide information on the fate of those who disappeared during the military regime.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings; however, police officers were responsible for a number of extrajudicial killings. The authorities investigated and in some cases detained, tried, and convicted the police involved; however, impunity for those who commit abuses is sometimes a problem.

According to reports from nongovernmental organizations (NGO’s), killings by members of security forces increased during the year. The Coordinator Against Police and Institutional Repression (CORREPI), a group of lawyers which tracks such cases, reported that security forces killed 98 unarmed persons in cases known as “gatillo facil” (easy trigger or readiness to shoot first) between November 1, 2000 and November 30, 2001, compared with 81 cases the year before. When deaths of bystanders in confrontations with security forces, deaths following torture, deaths in jails or police stations, deaths in protests, and domestic violence killings by security forces are added to the gatillo facil cases, the CORREPI total for the same period reaches 136 cases. The Center for Legal and Social Studies (CELS), a human rights organization, estimated that in 2000 there were 13 third parties killed and 30 wounded by police, compared with 3 killed and 16 wounded in 1999. The CELS also estimated that 234 civilians were killed in police confrontations in the city and suburbs of Buenos Aires during the year. Killings of Federal and Buenos Aires provincial police officers in confrontations also increased to 75 from approximately 64 in 2000. The crime rate, as measured by a survey taken of Buenos Aires residents who reported robberies, rose 33 percent during the year. Official statistics show a crime rate increase closer to 10 percent, and Ministry of Justice statistics show an increase of over 300 percent in the last decade. Police corruption also is a serious problem (see Section 1.c.).

On March 7, police attempting to apprehend a car thief shot and killed 18-year-old Edith Acevedo in El Talar, Buenos Aires province. Acevedo was standing at a kiosk holding her 19-month-old baby at the time. There was no exchange of gunfire; a single shot was traced to the personal rather than the service weapon of a policeman who was under preventive detention at year’s end.

On March 16, 16-year-old Martin Gonzalez was killed by a shot fired from a car in Tigre, Buenos Aires province. Gonzalez, whose brother Juan Marcelo was killed in March 2000, had been detained three times over the previous year by police seeking to “verify his record.” On each occasion the police reportedly threatened Gonzalez. He was shot in the leg in January. The police also had threatened Lidia Zarate, mother of the Gonzalez brothers and an active member of the Commission of Relatives of Victims of “Gatillo Facil” and Police Repression. On one occasion, when she picked up Gonzalez at the police station, she was told that next time he would be turned over to her in a casket like her other son. The policeman suspected of killing Gonzalez was from the police station in which Zarate was threatened. The case remained under investigation at year’s end.

On April 25, the bodies of 14-year-old Gaston Galvan and 16-year-old Miguel Burgos were found on a roadside in Tigre, Buenos Aires province. The boys had been shot multiple times and were found with their hands and feet tied. The boys’ families and others from the Bancalari neighborhood reported that Galvan and Burgos had been tortured and beaten by police assigned to the 3rd Station in Don Torcuato, and it later was found that they had reported this abuse to judicial authorities. There was considerable public concern about possible “death squad” activity and police involvement in the deaths of Galvan and Burgos and possibly other area youths. The Under Secretary for Human Rights from the Ministry of Justice and Human Rights contacted local authorities and actively is following the investigations into these and the deaths of another 64 minors in Buenos Aires province. By the end of the year, five provincial police were being held on charges linked to the boys’ cases.

In October the Buenos Aires provincial Supreme Court issued a resolution noting that in 1999 and 2000, Buenos Aires provincial police killed at least 60 minors; some of whom reportedly had received threats from police.

On June 17, during a confrontation between more than 20 Border Police and protesters who were blocking a road in General Mosconi, Salta province, Carlos Santillan and Oscar Barrios were killed in incidents apparently related to the protests. Santillan was shot in the head while visiting a cemetery near the roadblocks. Barrios, who was shot but died of respiratory causes, was found in a town plaza less than a mile away. A number of others were injured that day, including border police who were shot. Protesters and police accused one another of having used snipers in the confrontations. Responsibility for the deaths in Salta had not been established, although an investigation was underway at year's end.

On December 19 and 20, police responded to large protests in Buenos Aires; at least five demonstrators were shot and killed and others were injured, allegedly by police (see Sections 2.b. and 3). An investigation of the incidents began immediately.

Transvestite Vanesa Lorena Ledesma, also known as Miguel Angel Ledesma, died while in police custody in February 2000; the body showed signs of torture (see Section 5). Prosecutors refused to press charges against police officers after it was determined that the death was due to natural causes (heart failure). Human rights groups have pressed the Government, without success, to reopen the case. Ledesma's partner, Vanessa Piedrabuena, has received repeated threats and the police have raided her residence. Amnesty International and gay and lesbian rights groups actively follow the case, which U.N. Special Rapporteur on Torture Sir Nigel Rodley also included in his January report to the U.N. Commission on Human Rights titled "Civil and Political Rights Including the Questions of Torture and Detention" (see Sections 1.c. and 1.d.).

The judge investigating the deaths in 2000 of Jose Segundo Zambrano and Pablo Marcelo Rodriguez, reportedly informants on police corruption in Mendoza, has been threatened, as have attorneys involved in the case. After the killings of Zambrano and Rodriguez, a wide ranging reform of Mendoza police began, including a reorganization, with a civilian placed at the head of the police.

In July 2000, the authorities accused personnel of the Federal Penitentiary Service of ordering the murder of Gaston Maximiliano Noguera, an inmate at the Caseros prison (see Section 1.c.). Noguera was one of a group of prisoners allowed to leave prison to commit crimes, apparently with the consent of the Federal Penitentiary Service officials in this prison. During the year, a judge investigating prison corruption in Caseros discovered that prisoner Sanchez Tejada (who claimed to have killed Noguera as part of a deal with prison officials) was being taped by the guards during his testimony, although he was supposed to be testifying in secret. Caseros prison was closed but the investigations into the taping as well as into the deaths and alleged corruption continued at year's end.

In the case of the July 2000 killing of Manuel Fernandez in Jujuy province there was no new information; in July the community held a march and called for progress in the case.

In the case of the July 2000 death of Jorge Marcelo Gonzalez in Corrientes province, the press reported that a month after Gonzalez's death the provincial police chief was retired and his deputy and 72 other police were dismissed.

In the case of the April 2000 death of Juan Marcelo Carunchio in Cordoba province, the head of the special forces unit remained under detention at year's end.

In the case of Anibal Veron, killed during protests in Salta in 2000, the investigation continued at year's end.

Three of the more than 100 policemen involved in a shooting that caused the deaths of 2 hostages and a suspect in Villa Ramallo in 1999 are imprisoned awaiting trial. A policeman, Aldo Cabral, was believed to have provided the transmitter the robbers used during the bank robbery; three others, Ramon Leiva, Oscar Parodi, and Carlos Aravena, reportedly fired the shots that killed the hostages and suspect. The hanging death in prison of a surviving suspect, Martin Saldana, which the police attributed to suicide, was one of a number of suspicious elements in the initial investigation.

The CELS reported that there was no progress in the investigation of the 1999 deaths of Francisco Escobar and Mauro Cesar Ojeda during a protest in which police fired tear gas and rubber bullets in Corrientes. Human and labor rights groups have called for prosecution of those responsible for ordering police action.

In March a former Buenos Aires police officer was sentenced to a prison term of 14 years for killing Walter Repetto in 1998.

In 2000 an officer and two agents from the Entre Rios police were convicted and sentenced to between 15 and 18 years in prison for the 1998 beating death of Juan Carlos Cardoso in Diamante, Entre Rios Province.

In July a court convicted army officers Claudio Kielmasz and Guillermo Gonzalez, charged with killing three young women in the town of Cipolletti in 1997, of kidnapping and sentenced them to life and 18 years in prison, respectively; no one was tried on murder charges.

In September the trial began for those believed to have provided the vehicle used in the 1994 bombing of the Buenos Aires Jewish community center (AMIA), in which 85 persons were killed. Of the 20 suspects on trial, 15 are former police officers, including a former Buenos Aires police captain. The trial is expected to last through much of 2002 (see Section 5).

In the 1989 case of Sergio Sorbellini and Raquel Laguna in Rio Negro province, two suspects convicted and imprisoned were proven innocent and released after 33 years in prison and the judge in that case dismissed. Four police were charged with illicit association and awaiting trial in March. A forensic expert already has been convicted, and two forensic doctors faced trial but there was no further information regarding those actually responsible for the crime.

In 1999 Spanish Judge Baltasar Garzon charged 186 persons with various crimes committed during the dirty war by the 1976–83 military regime against alleged extremists. In November 1999, Garzon indicted the leaders of the military junta, including former military leaders General Leopoldo Galtieri, General Jorge Videla, Admiral Emilio Massera, and 95 other officers, including an active federal judge, on charges of torture, terrorism, and genocide. There were a number of significant developments regarding those presumed to have died following their disappearance during the military dictatorship, including court decisions that the full stop and due obedience laws preventing prosecution of many abuses were unconstitutional (see Section 1.b.).

In September federal Judge Gabriel Cavallo granted a Spanish request for the arrest and extradition of 18 alleged military regime repressors on charges of genocide, torture, and terrorism. However, no extraditions were carried out by year's end.

Retired Navy Commander Ricardo Cavallo, arrested in Cancun in August 2000 on extradition requests by Judge Garzon on charges of genocide, torture, and terrorism, remained detained in Mexico during the year. In January Mexican courts granted Cavallo's extradition to Spain, a decision then confirmed by the Mexican Foreign Minister in February. However, Cavallo continued to fight extradition to Spain in the courts. In July the Government of Mexico rejected the Argentine Government's extradition request for Cavallo and reaffirmed its intent to extradite him to Spain once he has exhausted his legal recourses.

On July 12, a German court ordered the arrest of retired General Carlos Guillermo Suarez Mason and in November Germany requested his extradition for the 1977 murder of Elisabeth Kasemann, a German student killed in Buenos Aires. The Argentine Government rejected the extradition request, reaffirming its principle of "territoriality" which prevents foreign courts from judging human rights violations that occurred in Argentina. Suarez Mason has been under house arrest since 1999 awaiting trial for suspected involvement in kidnaping babies of persons who disappeared (see Section 1.b.).

Chilean courts, including the Supreme Court in August, rejected Argentine Judge Maria Servini de Cubria's request for the extradition of General Augusto Pinochet alleging his involvement in the 1974 car bomb killing of Chilean General Carlos Prats and his wife in Buenos Aires. However, a Chilean Supreme Court judge did order the arrest of five former Chilean officials pursuant to Judge Servini de Cubria's extradition request stemming from the Prats killings; at year's end, four officials reportedly remained under detention and one had been released on provisional liberty.

Judge Rodolfo Canicoba Corral is investigating crimes against humanity committed during the 1970's and 1980's by the six member nations of Operation Condor. Judge Canicoba Corral has charged General Videla with involving Argentina in this illicit operation during his de facto presidency. Carlos Guillermo Suarez Mason, a former commander of Argentina's Army, Paraguayan General Alfredo Stroessner, Chilean General Augusto Pinochet, as well as the former head of the Chilean political police, Manuel Contreras Sepulveda, also are accused in the Operation Condor case. In July Judge Canicoba Corral requested Pinochet's arrest and extradition from Chile. In August the Chilean courts definitively refused the request.

Despite amnesty laws benefiting those suspected of human rights abuses during the dirty war, since 1995 human rights activists have pursued truth trials, based on an unwritten right to the truth. Although they do not result directly in criminal convictions, these truth trials serve to correct official records, such as the Civil Registry, and are bringing out additional information about dirty war abuses. Such trials continued in a number of jurisdictions throughout the country, with the best known of these in the towns of Bahia Blanca, La Plata, and Mar del Plata in the

Province of Buenos Aires. In Bahia Blanca, the Federal Court of Appeals is holding a trial "seeking the fate of those who disappeared and those born in captivity." One of the key incidents under investigation is the detention, kidnaping, and disappearance of a group of adolescents from National Technical Education School N1 of Bahia Blanca in 1976. In La Plata the investigations begun in 1998 included oral proceedings with testimony by victims and their families. In Mar del Plata, a committee of organizations constituting a broad cross section of civil society was formed to assist the judiciary in the investigations.

b. Disappearance.—There were no reports of politically motivated disappearances during the year.

During the year there were ongoing judicial proceedings and extradition attempts related to killings, disappearances, and torture committed by the 1976–83 military regimes (see Section 1.a.).

In 1984 the National Commission on Disappeared Persons (CONADEP) issued a report, based on public testimony from friends, relatives, and witnesses, listing 8,961 names of persons who disappeared in the dirty war. Since then the Under Secretariat for Human Rights, which inherited the CONADEP files, has added over 700 names, also based on voluntary reporting. Such reporting was necessary due to the lack of documentation, which CONADEP attributed to the destruction or concealment of records by those believed responsible for the repression. At the same time, other names have been removed from the original list, either through confirmation of the death or survival of the person who disappeared, or through the identification of duplicate entries.

The Under Secretariat for Human Rights received 9,005 claims for financial compensation from families of those who died or disappeared during the dictatorship. Proposed legislation to extend the deadline for claims was not enacted. While some human rights groups routinely claim that the number of disappeared was as many as 30,000, the number of applications for compensation suggests a figure of between 10,000 and 15,000 may be more accurate.

At the urging of the human rights organization Grandmothers of the Plaza de Mayo, judicial authorities continued to investigate the kidnaping and illegal adoption by members of the former military regime of children born to detained dissidents. There are believed to be between 250 and 300 such cases. In 1999 the Government created a reparation fund to be used by the Grandmothers to find and return children stolen from their parents during the 1976–83 military regime; this allowed the Grandmothers to carry out a nationwide advertising campaign that resulted in more than 240 individuals coming forward for assistance in confirming their true identities during the year. In July the Grandmothers assisted families in presenting 24 new cases of kidnaped children, adding to the 22 already presented for trial. At year's end, the Grandmothers had found 74 children of persons who disappeared during the dictatorship. The number of cases appears to demonstrate that the military dictatorship systematically kidnaped children of prisoners and detainees.

In accordance with the August 2000 Supreme Court ruling against the Supreme Council of the Armed Forces that had tried to take jurisdiction over the baby theft cases, the first trials for kidnapings of minors during the 1976–83 military dictatorship began in civilian criminal courts during the year.

In March in the case of Claudia Poblete, a child taken from a couple who had disappeared, Federal Judge Gabriel Cavallo declared the full stop and due obedience immunity laws unconstitutional. These laws protected those accused of past human rights abuses during the dirty war. Cavallo's decision was based on the incompatibility of the amnesty laws with international conventions to which the Government is a party, including the American Convention on Human Rights, as well as with Article 29 of the Constitution which denies the Congress the ability to give extraordinary powers to any branch of the Government. In October a second federal judge, Claudio Bonadio, upheld the unconstitutionality and invalidity of the two immunity laws in a case related to a conspiracy within the Navy to kidnap the children and take the property of persons who disappeared. These rulings do not affect those cases for which military leaders were tried and later pardoned. In November the Federal Chamber for Buenos Aires confirmed Judge Cavallo's unconstitutionality decision. The Supreme Court is expected ultimately to decide on the constitutionality issue; however, these decisions represented an important step in efforts to prosecute those responsible for abuses.

In 1985 the courts sentenced military junta leaders, including Jorge Videla, Emilio Massera, and Leopoldo Galtieri, to life imprisonment. The immunity laws prevented further trials for crimes committed during the military dictatorship, and President Carlos Menem pardoned the military leaders in 1990. However, in 1999 and 2000, the authorities rearrested many of them, including Videla, Guillermo

Suarez Mason, Juan Bautista Sasiain, Santiago Omar Riveros and Massera, as well as other officials from the dictatorship, for suspected involvement in kidnaping children of the disappeared and giving them away through illegal adoptions. Prosecuting lawyers and judges assert that regardless of the ultimate decision on the constitutionality of the immunity laws, the kidnaping of children and the granting of false identity are ongoing crimes not previously judged, to which a statute of limitations cannot be applied.

In April Federal Judge Gabriel Cavallo charged former police agent Julio Simon with the torture and kidnaping of Jose Poblete and Gertrudis Hlaczik, who disappeared after being detained in 1978. Simon was put under house arrest; the case against Simon and his partner Juan Antonio del Cerro continued at year's end. In a related case, on June 28, Federal Oral Tribunal No. 5 sentenced retired Lieutenant Colonel Cerefino Landa and his wife to 9½ and 5½ years of prison, respectively, for the kidnaping and substitution of identity of Claudia Poblete, the daughter of Hlaczik and Poblete.

In June Judge Servini de Cubra indicted naval doctor Jorge Luis Magnacco for attending clandestine births in the Escuela de Mecanica de la Armada during the military dictatorship. The indictment is expected to be part of the trial of Francisco Gomez and Teodora Jofre for the 1978 illegal adoption of the son of disappeared persons Patricia Roisinblit and Jose Manuel Perez Rojo.

On August 13, Judge Markevich sentenced retired Colonel Hernan Antonio Tetzlaff to 8 years' imprisonment for the illegal adoption of Hilda Victoria Montenegro, who was taken at 15 days of age from her parents Hilda Torres and Roque Orlando Montenegro, who disappeared during the dictatorships.

Legal battles continued in the case of a suspected daughter of a couple who disappeared; she has refused to provide a blood sample for DNA analysis to prove her true identity. After the lower court ruled in September 2000 that she must provide a blood sample, she was arrested and held overnight for noncompliance. The woman says that she will submit the sample voluntarily only if her adoptive parents, being held on charges of illegal adoption and substitution of identity, are given immunity.

Extradition requests related to crimes committed during the dirty war have been received from the Governments of Spain, France, Germany, and Italy (see Section 1.a.). In August a court denied the Government of Italy's request to extradite former naval officer Alfredo Astiz on territoriality (jurisdictional) grounds, implying that he could face charges in Argentina, if not for murder and genocide, then for kidnaping and facilitating illegal adoption of children of persons who disappeared. Also in August, the Foreign Ministry denied a separate request from the Government of France for extradition of Astiz for the disappearance of Alice Doman and Leonie Duquet. In past cases, the Government generally had not agreed to foreign extradition requests on the grounds that those charged already had been tried, convicted, and pardoned under domestic law.

In August 2000, Major Jorge Olivera was arrested in Rome on the basis of an international arrest warrant issued by the Government of France for the 1976 kidnaping of a French citizen in San Juan Province. Olivera was released by Italian authorities in September 2000 and returned to Argentina. In February the Italian Supreme Court nullified the September 2000 ruling that had allowed Olivera's release, which reportedly was based on a false death certificate.

Despite amnesty laws benefiting those suspected of human rights abuses during the dirty war, since 1995 human rights activists have pursued truth trials, intended to correct official records, especially with regard to the fate of those who disappeared and those born in captivity (see Section 1.a.).

In June the first of 18 sculptures was installed at the new Memory Park ("Parque de la Memoria"), which was created on the banks of the River Plate in Buenos Aires to commemorate those who disappeared during the military dictatorship.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture, and the Criminal Code provides penalties for torture similar to those for homicide; however, torture and brutality by police and prison guards remain serious problems. Human rights organizations described widespread police brutality, the use of torture on suspects, and corruption within the prison and police forces. The Government often investigated reports of police or prison brutality, but in some jurisdictions, such as Mendoza Province and greater Buenos Aires, threats to witnesses and advocates made prosecution of abuses and reform more difficult. On January 25, the U.N. Special Rapporteur on Torture released a report that recalled concerns raised in the Commission's 2000 review of the third periodic report of the country under the International Covenant on Civil and Political Rights. In particular, it noted concern about allegations indicating that torture and excessive use of force by police officials were "a widespread problem and that government mechanisms established to address it are inadequate." The U.N.

Special Rapporteur expressed concern about prison conditions and cited specifically “the severe overcrowding and the poor quality of basic necessities and services, including food, clothing and medical care.”

In August three federal judges strongly criticized “the generalized practice of torture in all its forms in a systematic way, in the area of investigations and the treatment of detainees, especially in the province of Buenos Aires, where there is a history of authoritarian style state violence.” One judge described the situation as “very serious.” The judges advocated: 1) adopting a judicial police with new staff which would be charged with investigations, while current police would handle prevention and security duties; 2) removal of obstacles and threats aimed at human rights groups carrying out their duties (see Section 4); 3) putting prosecutors and public defenders in charge of auditing the police and the prison service; 4) dismissal from the security forces of those implicated in human rights violations during the dictatorship or since; and 5) courses to bring judges up to date on human rights.

The judges’ report was based in part on an 11-month investigation by the Buenos Aires provincial public defender, Mario Coriolano, who reported 602 cases of torture in jails and police stations in the province between March 2000 and June 2001. Most of these were punches and kicks to various parts of the body, baton blows, and threats (some with firearms). There were also cases of applications of electric shock (a habitual practice from the military dictatorship) and “dry submarine” (asphyxia with a plastic bag). The judges, as well as the penitentiary system’s own attorney, pointed to the few instances of complaints sustained in the courts because of the difficulty in obtaining proof due to prisoners’ fear of reprisals.

The families of two boys found dead in April reported that police had tortured and abused the boys on previous occasions (see Section 1.a.).

On July 4, in Mendoza Province, a policeman, Adrian Lopez, was kidnaped, beaten, and shot in the leg by hooded assailants who told him that it had happened because he “had a big mouth.” Lopez said that he heard his attackers using police codes in radio communications. Lopez secretly had presented evidence on police corruption to the judiciary, but shortly thereafter his name appeared in the press and he began receiving death threats.

In late August, Roberto Lucero and Maria de los Angeles Romero, police who had testified in secret in an investigation of corruption by a group of police from Vicente Lopez in Buenos Aires Province, were stopped by hooded assailants. The assailants ordered Lucero and Romero out of their car, put guns to their heads and told them to resign from the Buenos Aires provincial police. At least 10 other police witnesses in the same corruption case also reported threats, including death threats and beatings of family members. Another witness said that police superiors had tried to impugn his statement by requesting psychiatric studies in order to remove him from the police force. In January a judge had ordered the release of 19 policemen initially detained in the corruption investigation and they reportedly had obtained the judiciary’s secret list of witnesses against them.

On October 24, the authorities arrested six police officers from a police station in Lomas de Zamora after a doctor found injuries to a prisoner detained there on October 20. The Lomas de Zamora neighborhood accounted for 123 of the over 600 cases cited in the judges’ August report.

There was no further information on the case of the policewoman charged as the instigator of the torture and the four men charged as participants in the September 2000 torture of Ariel Simonini in Tres de Febrero (Buenos Aires province); or in Judge Mario Castillo Sola’s investigation of the July 2000 kidnaping and torture of Aldo Bravo by provincial police of Santiago del Estero; or in Judge Hugo Perotti’s investigation into the April 2000 police beating of Cristian Omar Lopez in Diamante district.

There are serious problems with police corruption at all levels. Police are not well paid, with a starting salary of around \$400 (400 pesos) a month rising to about \$2,000 (2,000 pesos) a month for a captain. Police often perform official contract guard duty to earn extra money. Addressing police and prison corruption is difficult because the subjects of investigations intimidate whistleblowing colleagues, judicial officials, and civilian witnesses. Threats and beatings aimed to intimidate witnesses are common and, in some cases, occurred in connection with murders believed committed by members of security forces (see Section 1.a.). High-level officials also sought to discredit damaging testimony of subordinates by initiating internal proceedings against whistleblowers. At least three bombs exploded in midyear and were suspected to be linked to some of the dozens of Mendoza police dismissed since 1998 because of corruption charges.

Provincial police and federal Border Police clashed with protesters on numerous occasions during the year (see Section 2.b.). On a number of occasions police used tear gas, water cannons and rubber bullets to disperse demonstrators and injuries

and deaths were reported. In an incident in Salta province on June 17, two persons were killed and others were injured (see Sections 1.a. and 2.b.). At year's end, investigations still were underway in Salta, but it is not clear who was responsible for the killing, since both sides claimed there were sharpshooters from the other side at the scene.

In December at least five persons were killed and others were injured in protests in Buenos Aires (see Sections 1.a., 2.b., and 3.).

On March 30, Maria Dolores Gomez, public defender in San Isidro, Buenos Aires province, was beaten under suspicious circumstances (see Section 1.e.).

On May 25, unknown hooded assailants attacked the daughter of political activist Hebe de Bonafini in La Plata, Buenos Aires Province; the victims alleged that security forces were responsible for the attack (see Section 4).

In March the U.N. Committee on the Elimination of Racial Discrimination expressed concern regarding reports throughout the country of police brutality committed on a variety of pretexts on grounds of race, color, or ethnic origin (see Section 5).

An Amnesty International report in 2000 expressed concern over reports that police targeted, tortured, and harassed gays, lesbians, and bisexuals (see Section 5).

On January 17, an explosive package damaged a Shi'a Muslim mosque in Buenos Aires (see Section 5).

Prison conditions are poor. Many prisons and jails are overcrowded, and some facilities are old and dilapidated. According to a Ministry of Justice prison census released in April, there were 43,174 inmates in Federal and provincial facilities designed to hold 30,703 inmates. Of those, 38 percent were not in the appropriate facilities but were held in police stations, where conditions reportedly are worse than in prisons. About 75 percent of the inmates in the census were held in detention awaiting trial.

Since 1999 five new prisons have been opened in the Buenos Aires area. Budget austerity has deferred indefinitely planned construction of additional facilities.

Torture and brutality by prison guards and officials remained serious problems. In January in Marcos Juarez, Buenos Aires province, 41 inmates reported having been indiscriminately beaten by guards who used helmets and shields to obscure their identity. Federal judge Jorge Rodriguez from Moron was investigating at year's end. In a similar case reported on July 31, prisoners in the new General Alvear prison in Buenos Aires province filed a complaint alleging physical and psychological torment. The courts determined that there had been abuses and ordered transfers and an investigation. An investigator told the press that two prisoners had reported that prison personnel in General Alvear Unit 30 had offered drugs and temporary releases to them in exchange for killing Daniel Chocobar, who was the first prisoner to file a complaint in 2000.

On July 12, in the isolation block of the Unit 9 prison in La Plata, Buenos Aires province, a prisoner, Anibal Hernan Larranaga, 4 days from his release, was burned severely in his bed. Prison guards claimed that he set the fire himself but other prisoners reported suspicious behavior indicating that prison staff were responsible for the fire. The case was under investigation at year's end.

Corruption among prison guards has been a problem. More than one prisoner testified that prison guards had offered them releases in order to attack public defender Maria Dolores Gomez (see Section 1.e.). A judge investigating prison corruption in Caseros discovered that prisoner Carlos Sandez Tejada (who claimed to have killed another prisoner) was taped by guards during his supposedly secret testimony (see Section 1.a.). These cases were investigated by a judge, who also was threatened in 2000, and the Caseros prison in which these incidents occurred was closed during the year. The January report of the U.N. Special Rapporteur for Torture noted concerns about "abuses of authority by prison officials, such as torture and ill treatment, and corruption."

Security is a problem at some prisons and detention facilities, at times resulting in jailbreaks. According to the Federal Penitentiary Service, there were a number of prison uprisings during the year, although none occurred in federal facilities. According to the organization Nueva Mayoria, there were only 6 riots in federal and provincial prisons throughout the country during the year, compared with 28 in 2000. Some riots resulted in deaths and injuries to guards and prisoners.

Under national regulations, pretrial prisoners may not be held together with convicted prisoners; however, reliable reports indicate that this segregation of prisoners often is not respected in practice.

The law provides for separate facilities for women and for minors, and these are available in practice.

In April the Buenos Aires Supreme Court called for the Provincial Minors Council to resolve the problem of some 130 minors under detention in police stations in Bue-

nos Aires Province. During the year, the courts repeatedly pressed the provincial security ministry to stop cases of mistreatment of minors under detention.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Penal Code limits the arrest and investigatory power of the police and the judiciary; however, provincial police sometimes ignored these restrictions and arbitrarily arrested and detained citizens. Human rights groups find it difficult to document such incidents and state that victims are reluctant to file complaints because they fear police retaliation or do not believe that their complaints would result in any action.

Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that suspects have committed, or are about to commit, a crime, or if they are unable to determine the identity of a suspect. However, human rights groups argue that this provision of law is disregarded in order to extort money from persons by threatening to charge them with illegal weapons or drug possession.

Police occasionally detain teenagers and young adults, sometimes overnight or for an entire weekend, without formal charges. They do not always provide such detainees with the opportunity to call their families or an attorney. These detainees are released only upon a complaint from relatives or legal counsel.

In June a law providing the Federal Police with new powers was passed and went into effect. The change in the law allows police to question suspects at the scene of the crime and to hold suspects incommunicado for up to 10, rather than 6, hours; it also provides police with additional search powers (see Section 1.f.). At least one prominent human rights group opposed the changes. At year's end, the effects of the law on the crime rate and reported police abuses were still unclear.

The law allows pretrial detention for up to 2 years, and the slow pace of the justice system often results in lengthy pretrial detentions (see Section 1.e.). If convicted, a prisoner usually receives credit for time already served. According to local authorities, around 70 percent of the inmates in the federal prisons of the greater Buenos Aires area were in pretrial detention. The law provides for the right to bail, and it is utilized in practice.

The Under Secretariat for Human Rights, which administered a law granting former prisoners of the military regime the right to apply for compensation, received over 13,148 applications. It had approved about 8,000 of them by year's end.

The law does not permit forced exile, and it is not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, while the judiciary is nominally independent and impartial, its judges and judicial personnel are inefficient and at times subject to intimidation and political influence. The system is hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, lack of funding, and incompetence. Allegations of corruption are reported widely.

There were credible allegations of efforts by members of security forces and others to intimidate the judiciary and witnesses (see Sections 1.a., 1.b., and 1.c.).

On March 30, unknown assailants beat Maria Dolores Gomez, a public defender who had criticized conditions in prisons in 2000 (see Section 1.c.). More than one prisoner testified that prison guards had offered them releases in order to attack public defender Gomez. She also received threats attributed to prison authorities and was the subject of unusual judicial proceedings suspected to have been undertaken at the instigation of a high-level prison official. CELS requested that the Inter-American Commission on Human Rights (IACHR) intervene, and Amnesty International publicized the case. The Government reported back to the IACHR that it had offered Gomez protection and begun an investigation of the beating. The investigation had yielded no reported results by year's end.

There was no new information in the investigation into death threats received by Judge Maria Romilda Servini de Cubria and her judicial secretary Ricardo Parodi in 2000, apparently in relation to investigations of kidnaping of children during the dirty war (see Section 1.b.). Additional security was provided to them and there were no threats during the year.

The judicial system is divided into federal and provincial courts, each headed by a Supreme Court with chambers of appeal and section courts below it.

The Council of Magistrates is responsible for submitting to the President for his decision a slate of three qualified candidates for each federal judicial vacancy. The President's choice is then subject to Senate approval. The council is also responsible for conducting impeachment hearings on judges implicated in wrongdoings and for general administration of the federal court system. At year's end, there were still 75 vacant positions for national and federal judges.

In February the Council of Magistrates unanimously suspended Judge Carlos Liporaci in anticipation of a subsequent impeachment hearing on charges of illicit

enrichment. Liporaci resigned 2 weeks later, thus avoiding the impeachment hearing.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. A panel of judges decides guilt or innocence. Federal and provincial courts continued the transition to oral trials in criminal cases, instead of the old system of written submissions. However, substantial elements of the old system remain. For example, before the oral part of a trial begins, judges receive pretrial written documentation regarding the case, which, according to prominent legal experts, could bias a judge before oral testimony is heard. Lengthy delays in trials are a problem. The 1994 Constitution provides for trial by jury; however, required implementing legislation has not been passed. There is a provision for counsel for indigents; however, in practice counsel may not always be provided due to a lack of resources.

Several groups expressed concern regarding laws for judicial proceedings regarding minors (see Section 5).

There are 11 La Tablada prisoners still under detention (all but one are allowed temporary releases to work, study or be with families). No Tablada prisoner was released this year; all but two of them are expected to be given conditional liberty around mid-2002.

There were no other reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respects these prohibitions. Violations are subject to legal sanction. In practice, local police stop and search individuals without probable cause.

In June a new law was enacted and went into effect that granted federal police new powers, including the power to enter the scene of a search without civilian witnesses in case of danger; to take evidence of a crime found while searching for items related to a different crime; and to search anyone, their belongings and cars, without a court order in order to find items “stemming from or constituting a crime or which could be used to commit one” as long as prior circumstances justify it and they are done in a place that is public or with unrestricted access. The law also provides for expanded powers of detention (see Section 1.d.).

Several highly publicized cases of unauthorized telephone wiretaps in the past several years raised public concern. The use of wiretaps approved by a federal judge continued to be governed by a decree issued by then-President Menem in the early 1990's. However, in December a new intelligence law was enacted and published in the Official Bulletin. Among other provisions, the law provides for legislative oversight over government intelligence activities and prohibits unauthorized interception of telephone, postal, facsimile, or other voice or image transmissions as well as other kinds of information, files, and private documents. The Government has 180 days to issue implementing regulations.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, there were several reports that public officials harassed, threatened, and criticized the press, particularly at the provincial and local levels.

A number of independent newspapers and magazines publish freely, and all print media are owned privately. Privately owned radio and television stations broadcast freely. The Federal Government owns the Telam wire service, a radio network, and a television station. A few provincial governments also own broadcast media.

During the year, there were several reports that public officials harassed and threatened journalists, and that they used libel laws and withholding of advertising to pressure the press. The journalists' organization “Periodistas” also has reported cases in which private individuals are believed to have attacked and threatened the press.

On March 28, Carlos Abrehu, editor of daily La Gaceta of Tucuman province, received a package containing a hand grenade and a note. The daily's publisher attributed the threat to unnamed individuals displeased with the paper's coverage of excessively high salaries and allowances for provincial politicians. Police disposed of the unexploded device and gathered evidence for an investigation; there were no reported results at year's end.

Unknown assailants shot at the homes of two radio journalists in what are believed to have been attempts at intimidation. In Santa Rosa, on February 17, four bullets were fired into the home of Edgardo Soto, who had been reporting on the foot and mouth disease outbreak and the debts of a local meat company. On June 19, in Capitan Bermudez in Santa Fe province, unknown attackers shot into the home of Martin Oeschger, a journalist for the radio station FM Parana. The fol-

lowing week, Oeschger received a telephone threat referring to the shooting. Previously Oeschger had received telephone threats and stones were thrown at his house. According to Periodistas, Oeschger had been threatened repeatedly by officials from the Municipal Workers and Employee's Union, about which he had written articles criticizing corruption. The provincial government provided increased police patrols for Oeschger.

On July 17, the Civil and Commercial Federal Chamber dismissed Judge Claudio Bonadio's charges of "violation of confidentiality" against journalist Marcelo Bonelli, who had published information in June 2000 about irregularities in financial statements made by a government official, Victor Alderete. Alderete also filed a criminal libel complaint against the Director of La Nacion for reporting on an investigation into a questioned contract, but another chamber of the same court dismissed the complaint.

On September 26, the Supreme Court upheld a 1998 court decision fining the magazine Noticias \$60,000 (60,000 pesos) for violating the privacy of then-President Menem by publicizing the details of his relationship with a woman, including the name of a minor born to them.

Efforts to intimidate the press in the province of Santiago del Estero continued to be a problem as daily newspaper El Liberal faced legal challenges by prominent members of the Women's Branch of the Peronist Party because of its reproduction of an insulting title originally published in La Voz del Interior. Irregularities in the suits as well as withdrawal of advertising and nonpayment of debts by the provincial government raised questions about the Government's role in the suits. El Liberal also reported "political persecution and espionage by the provincial government" to the press association ADEPA. In June a Special Rapporteur for the U.N. Commission on Human Rights visited to study the press situation in the province and a report is expected to be released in March 2002.

There was no additional information with respect to reports in 2000 of wiretaps and threats against El Liberal in the province of Santiago del Estero; threats against Cordoba's La Voz del Interior, which had published information about wiretapping and other abuses attributed to the provincial government of Santiago del Estero; or the killing of Ricardo Gangeme in Chubut Province in 1999, which observers believe was not related to his writing.

The law provides for academic freedom, and the Government does not restrict this right in practice.

b. Freedom of Peaceful Assembly and Association.—The Constitution and the law provide for freedom of assembly, and the Government generally respects this right in practice. There were numerous peaceful protests and demonstrations throughout the country during the year (see Section 6.a.). However, on a number of occasions, the security forces used rubber bullets, tear gas, and water cannons to disperse unruly demonstrators, resulting in several deaths and a number of injuries. For example, on June 17, two persons died in a clash between protesters and Border Police in Salta province (see Section 1.a.).

In December there were an increasing number of protests against the Government. A general strike also took place without incident on December 13 (see Section 6.a.). Most of the December protests were in opposition to the Federal Government's austerity program, newly imposed bank deposit restrictions, the continuing recession, loss of employment, non-payment of wages or cuts in wages. On December 14, the protests turned violent, with supermarket looting in the provinces of Mendoza and Santa Fe, which spread to other provinces. By December 19–20, the looting and street violence reached a critical state, with federal and provincial security forces apparently unable or unwilling to control the situation.

On December 20, the violence and looting reached downtown Buenos Aires, with a day of confrontations between protesters and security forces on the central Plaza de Mayo, in front of Congress and on the major avenues of the capital city. Police ultimately moved to disperse demonstrators on the Plaza de Mayo. In the resulting chaos, at least five persons were shot and killed, with many others injured. In the wake of this violence, President de la Rúa resigned the Presidency at the end of the day (see Section 3).

At least seven persons were also reported killed in violence in the provinces of Buenos Aires and Santa Fe on December 19–20. The total number of dead during the 2 days of violence around the country was reported to have been as high as 30 persons. Many of the deaths have not been attributed to security forces; in some cases, the security forces present appeared reluctant to intervene. Investigations to determine responsibility for the deaths of demonstrators near the Plaza de Mayo were begun immediately in the wake of public and congressional charges of police violence and repression. The investigations were ongoing at the end of the year, with no conclusive results expected in the near future.

Public university study is free; however, in response to a sharpening financial crisis, the federal Government has cut deeply public spending to achieve a balanced budget. University administrators, faculty and students, anticipating significant future cuts in funding to academic institutions, demonstrated frequently throughout the year. In March students from many of the public universities in the country took over university offices and blockaded streets in protest of then-Economy Minister Lopez Murphy's proposal to cut the budget for higher education and to charge some tuition. The demonstrations were peaceful, although they included roadblocks. The protests in solidarity with the public teachers' union's strike contributed to the resignation of Lopez Murphy and the reversal of the proposed education cuts.

There was no new information related to investigations into injuries of persons protesting the labor reform law in 2000 and the 1999 deaths of two persons demonstrating against the Federal Government's takeover of the Corrientes provincial government.

The Constitution and the law provide for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution states that the Federal Government "sustains the apostolic Roman Catholic faith;" however, other religious faiths are practiced freely. The Government provides the Catholic Church with a variety of subsidies totaling \$8 million (8 million pesos), administered through the Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship. The Secretariat is responsible for conducting the Government's relations with the Catholic Church, non-Catholic Christian churches, and other religious organizations in the country. Religious organizations that wish to hold public worship services and to obtain tax exempt status must register with the Secretariat, and must report periodically to the Secretariat in order to maintain their status.

In April the Jewish community organization DAIA (Delegation of Israelite-Argentine Associations) strongly criticized the provincial government of Catamarca over the teaching of religion in public schools. Article 270 of the provincial Constitution, in place since 1988, made the teaching of religion in public schools to minors obligatory so long as the parents agreed to the creed being taught. The article specified that all students would receive instruction in their parents' faith, thus separating children according to religion in a potentially discriminatory fashion. The article did not take effect until 1999, thus affecting the 2000 and 2001 school years. After DAIA's initial statements to the media, in April the provincial governor, Oscar Anbal Castillo, revoked the article by ministerial decree. Catholic religious leaders then vocally demanded that the article be reinstated. An agreement between the provincial government and various religious communities was reached in July. The agreement specifies that religion may be taught as an optional activity outside of school hours.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution and laws provide for these rights, and the Government generally respects them in practice. Protesters frequently blocked roads (see Sections 2.b. and 6.a.).

A committee composed of representatives of the Ministries of Justice, Foreign Affairs, and the Interior determines grants of refugee status, using the criteria of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A representative of the U.N. High Commissioner for Refugees may participate in committee hearings, but may not vote. The Government has granted refugee status to numerous persons and accepted refugees for resettlement. The issue of the provision of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic free and fair elections held on the basis of universal suffrage. In 1999 voters elected Fernando de la Rúa, leader of the "Alianza" coalition of opposition parties, as president. In national midterm legislative elections on October 14, the opposition Justicialist party maintained its absolute majority in the Senate and replaced the Alianza as the largest party in the Lower House. This was the first time that the voters directly elected the Senate; previously provincial legislatures elected senators.

Late on December 20, after several days of protests, street violence, looting, and deadly confrontations between security forces and demonstrators, President De la Rúa resigned (see Section 2.b.). Because of the resignation of his vice president over a year before, under the Constitution, the presidency fell to Ramon Puerta, Presi-

dent Pro Tempore of the Senate and member of the opposition Peronist party. As provided for in the Constitution, Puerta immediately called a Legislative Assembly, which met and elected San Luis Governor Adolfo Rodríguez Saa as President until elections called for March 2002. President Rodríguez Saa governed for a week before street protests resumed and he lost political support and also resigned. When Senator Puerta resigned his Senate leadership position, the interim presidency passed to Deputy Eduardo Camano, President of the Chamber of Deputies, who again called the Legislative Assembly to vote—this time for a President who would serve out the remainder of De la Rúa's term ending in 2003. On January 1, 2002, the Legislative Assembly elected former Buenos Aires Provincial Governor Eduardo Duhalde.

In 1999 President de la Rúa requested and received congressional permission to suspend all three branches of the Corrientes provincial government and take direct federal control of the province. Public workers, including teachers, court workers, and public hospitals had been on strike or limiting services for much of the year due to the provincial government's inability to pay salaries. In December 2000, Congress extended the suspension of the Corrientes provisional government for an additional year. Elections for the provincial government were held in Corrientes on October 14, and a new provincial government took office in December.

There are no legal impediments to participation by women and minorities in politics and government; however, the percentage of women and minorities in government and politics does not correspond to their percentage of the population. The Constitution stipulates that the internal regulations of political parties and party nominations for elections are subject to requirements to increase women's representation in elective offices. A 1991 law mandates the use of gender quotas by all political parties in national elections. A 1993 decree requires that a minimum of 30 percent of all political party lists of candidates be female. As a result, the presence of women in Congress has increased. The number of female members in the Lower House rose from 71 to 75 (out of 257 total members) after the October 14 national legislative elections. Until the October 14 elections, gender quotas had not applied in the Senate, where there were only 2 female members in the 72-person body. However, a December 2000 presidential decree mandated that at least one-third of all senatorial candidates in future elections must be women. There are 25 women in the Senate that took office in December. For most of the year, there was one female cabinet-level official—the Minister of Labor, Employment, and Human Resources Training. There are no female justices on the Supreme Court although women are prominent in lower levels of the judiciary system.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Government is usually cooperative, although not always responsive to their views.

Some of the most active human rights organizations include the Grandmothers of Plaza de Mayo, the Mothers of Plaza de Mayo Founding Line, the Center for Legal and Social Studies, the Permanent Assembly for Human Rights, Service for Peace and Justice, and New Rights of Man.

There were credible allegations of efforts by members of security forces and others to intimidate the judiciary, witnesses, and local human rights organizations (see Section 1.e.). These attempts include the attacks during the year on: Martín González, the son of Lidia Zarate, who was active in a human rights group after the killing of another son; public defender María Dolores Gómez who criticized torture in jails; and police corruption whistleblowers Adrián López in Mendoza, and Roberto Lucero, and María de los Angeles Romero (see Sections 1.a., 1.c., and 1.e.).

On May 25, María Alejandra Bonafini, the daughter of political activist Hebe de Bonafini, was attacked by unknown hooded assailants in the home she shares with her mother in La Plata, Buenos Aires Province. The victim reported that the attackers put a plastic bag over her head, beat her and burned her arms and back with cigarettes. According to Amnesty International, which issued a widespread appeal on behalf of both the women, she had received death threats related to her mother's work. The elder Bonafini declined to meet with the Under Secretary for Human Rights about the case, and she and her daughter refused protection offered by the Government because they believed that security forces were responsible for the attack. The authorities initiated an investigation of the incident although Hebe de Bonafini said she would not report the incident officially to police or judicial authorities (see Section 1.c.).

In his January 25 report, the U.N. Special Rapporteur for Torture referred to concerns raised by the Human Rights Committee with regard to its October 2000 review of the periodic report of Argentina under the International Covenant on Civil and Political Rights (see Sections 1.a., 1.c., and 1.d.). In June a Special Rapporteur for the U.N. Commission on Human Rights visited to study press freedom in Santiago del Estero province (see Section 2.a.).

Within the federal Government, the Ministry of Justice and Human Rights' Under Secretariat for Human Rights addresses human rights concerns at a domestic level. Human rights issues at the international level are handled by the Office of the Special Representative for International Human Rights of the Ministry of Foreign Relations, International Trade, and Worship.

In 2000 Congress passed a law calling for the human rights commissions of both chambers to write an annual report on human rights in the country, beginning in 2001; however, at year's end the report had not been published.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and law provide for equal treatment for all citizens, and the law provides for prison terms of up to 3 years for discrimination based on race, religion, nationality, ideology, political opinion, sex, economic position, social class, or physical characteristics.

The National Institute against Discrimination, Xenophobia, and Racism (INADI), an agency of the Ministry of Interior, is mandated to identify and combat all forms of intolerance in the country. INADI investigates violations of the antidiscrimination law and carries out educational programs to promote social and cultural pluralism and combat discriminatory attitudes. However, INADI's extremely limited budget, ongoing reorganization, and limited legal authority limited the office's effectiveness.

An Amnesty International report in 2000 expressed concern over reports that police targeted, tortured, and harassed gays, lesbians, and bisexuals (see Section 1.c.). The report included information regarding the February 2000 death in police custody of a transvestite whose body showed signs of torture (see Sections 1.a.). Amnesty International noted that police bylaws and provincial codes of misdemeanors allow police to detain or sanction members of sexual minorities for actions that do not constitute a criminal offense. The Association Against Homosexual Discrimination filed a complaint to the Office of the Human Rights Ombudsman in Cordoba regarding such treatment.

Women.—Domestic violence and sexual harassment against women widely are recognized as serious social problems. However, few official statistics on these crimes are available, so any accurate measure of the problems is difficult. The Government, through the National Council of Women, implemented a new database system, with the help of UNICEF, to standardize statistics on domestic violence, permit a more accurate evaluation of the scope of the problem, and promote better public policy. No statistics on domestic violence were available on a national level. However, as an indicator of the magnitude of the problem, courts in the city of Buenos Aires received 1,289 formal complaints in 2000.

Any person suffering physical or psychological domestic violence by a family member may file a formal complaint with a judge or police station; the level of injury inflicted determines the punishment under the civil and criminal codes. In addition, the Law on Protection Against Family Violence gives a judge the right to prevent the perpetrator of a violent act from entering the home or place of work of the victim, and temporarily to decide issues of family support, child custody, and arrangements for communication with children.

Rape is a problem, but reliable statistics as to its extent were not available. The crime of rape falls under the Law of Crimes Against Sexual Integrity. Marital rape and acquaintance rape are offenses under the law, if force is involved, but the need for proof, either in the form of clear physical injury or the testimony of a witness, often presents a problem. A 1999 law expanded the definition of punishable sexual violations beyond forcible intercourse and increased the severity of punishments; in addition, it is no longer possible for an accused rapist to be excused from prosecution by offering to marry the victim. The penalties for rape vary from 6 months to 20 years and depend on the nature of the relationship between the rapist and victim and the physical and mental harm inflicted.

Public and private institutions offer prevention programs and provide support and treatment for women who have been abused, but transitory housing is almost nonexistent. The Buenos Aires municipal government operates a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence, but few other shelters exist. NGO's working in the area of women's rights stress that women too often do not have a full understanding of their rights. Women

lack information about what can be considered rape, or when physical and emotional abuse is considered a punishable crime.

Sexual harassment is a serious problem. In the first conviction of an employer for allowing sexual harassment, a woman was awarded \$25,000 in compensation in August. In September Buenos Aires province adopted the first law outlawing sexual harassment in provincial agencies. However, women lack information about what constitutes sexual harassment.

Adult prostitution is illegal but does occur. Women are trafficked to the country for purposes of prostitution; in August a court convicted a nightclub owner of kidnaping and operating a house of prostitution (see Section 6.f.).

Despite legal prohibitions, women encounter economic discrimination and occupy a disproportionate number of lower paying jobs. Often they are paid less than men for equivalent work, although this is prohibited explicitly by law. Working women also are represented disproportionately in the informal sector, where effectively they are denied work-related economic and social benefits enjoyed by registered workers. According to government statistics, in May women in general earned an average of 26.5 percent less than men did. The wage differences were more pronounced at higher levels of education; for example, women with a college degree earned 46 percent less than men. According to government statistics, in 1999 the underemployment rate for women was twice as high as that for men.

The National Council of Women, an interagency organization under the authority of the President's Cabinet Chief, carries out programs to promote equal opportunity for women in the social, political, and economic arenas. The Council operates a Web site that provides information on the organization and on issues relevant to the organization's goals.

Children.—While the Government voices strong commitment to issues of children's rights and welfare, including education and health, increasingly tight federal and provincial budgets mean that programs in these areas continued to receive insufficient funding. The Ministry of Justice and Human Rights' Under Secretariat for Human and Social Rights works with UNICEF and other international agencies to promote children's rights.

A 1993 law requires that all children receive a minimum of 9 years of schooling, beginning at age six. Education is compulsory, free, and universal for children up to the age of 15; however, adequate schooling is unavailable in some rural areas. The National Council for Childhood, Adolescence and the Family, an independent government organization reporting to the Ministry of Social Development and Environment, stated that according to a 1999 study, approximately 99 percent of all children of primary school age attended schools, with roughly the same percentages for both genders. There are numerous federal and provincial health care programs for children, although not all children have access to them. The most recent census (in 1991) noted that 4.5 million children under age 14 lived in impoverished conditions.

NGO's and church sources indicated that child abuse and prostitution were increasing, although no statistics were available.

A May 2000 UNICEF report stated that sexual exploitation of children is widespread due to police inefficiency and lack of judicial intervention. The report indicated that the problem is substantial, but statistics on this crime were not available. The children involved usually work in the same institutions as adults. The National Council for Childhood, Adolescence, and the Family has developed an Action Plan, together with the Attorney General, the Ministry of Justice and Human Rights, the National Council of Women, and UNICEF, on the elimination of child prostitution.

There are street children in some large cities. A survey conducted in April and May by the city of Buenos Aires documented 1,643 children and adolescents found on the streets. Of these, 93 percent lived with their families and 7 percent were "street children." Of the children living with their families, 25.6 percent had no fixed residence. The survey also found that approximately 68 percent of the children surveyed between 4 and 18 attended school. Nearly 80 percent of the children surveyed carried out some economic activity (see Section 6.d.).

Children have been trafficked to the country for labor and for prostitution (see Section 6.f.).

UNICEF and the National Council for Childhood, Adolescence and the Family are concerned about existing laws for judicial proceedings regarding minors. Children under the age of 16 have immunity. However, under the Law of Patronato, those accused of a crime who are between the ages of 16 and 18 are taken before a judge and assumed guilty of the crime, without the benefit of either an oral or written trial. Punishment is then determined based not on the severity of the crime under the law but on the financial ability of the guardians to provide treatment and rehabilitation. Thus, minors who commit serious crimes but come from wealthier fami-

lies are released to the guardians, while minors from impoverished backgrounds may be sent to juvenile detention centers for lesser crimes.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, and the provision of other state services, and mandates access to buildings for persons with disabilities. There has been some progress in these areas. The National Advisory Commission on the Integration of People with Disabilities—a governmental office—and numerous NGO's actively defend the rights of persons with disabilities and help them to find employment.

A 1994 law intended to eliminate barriers for persons with disabilities mandates standards regarding access to public buildings, parks, plazas, stairs, and pedestrian areas. Street curbs, commuter train stations, and some buildings in Buenos Aires have been modified to accommodate wheelchairs, but many public buildings and lavatories are still inaccessible to persons with disabilities. The Buenos Aires subway system installed a small number of elevators and escalators to facilitate use of the subway system by the disabled, and the subway administration pledged to increase the overall number of escalators in the system. More buses and trains also are accessible by persons with disabilities, consistent with legislation passed in December 2000.

Indigenous People.—The Constitution recognizes the ethnic and cultural identities of indigenous people and states that Congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. However, in practice, indigenous people do not participate in the management of their lands or natural resources. The National Institute of Indigenous Affairs (INAI) is the government agency responsible for implementing these provisions.

The principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—represent less than 5 percent of the national population. The INAI estimates that there are approximately 700,000 indigenous persons, most of whom reside in rural areas. However, the nongovernmental Indigenous Association of the Argentine Republic estimates the indigenous population at 1.5 million persons. Other demographers in recent years have provided estimates of at most 450,000 persons. To clarify the discrepancy, the national census scheduled to take place in 2000 was to have collected information about indigenous identity for the first time; however, funding shortfalls required the Federal Government to postpone the census until mid-November, with results expected in 2002.

Existing census data show that poverty rates are higher than average in areas with large indigenous populations. Indigenous persons have higher rates of illiteracy, chronic disease, and unemployment. Government efforts to offer bilingual education opportunities to indigenous people continued to be hampered by a lack of trained teachers.

Since 1994 the Government has restored approximately 2.5 million acres of land to indigenous communities. Nonetheless, some communities were involved in land disputes with provincial governments and private companies, particularly over questions of natural resource extraction and road construction.

Religious Minorities.—Acts of discrimination and violence against religious minorities, particularly the Jewish and Muslim communities, are reported regularly. Combating this and other forms of intolerance is a priority for the INADI. The Federal Government continues to support a public dialog intended to highlight past discrimination and to encourage improved religious tolerance. There were a number of reports of anti-Semitic acts, of anti-Semitic violence, and of threats against Jewish organizations and individuals during the year. The most frequent incidents include occurrences of anti-Semitic and pro-Nazi graffiti and posters in cities throughout the country. During the year, no one was convicted for any anti-Semitic or anti-Muslim acts.

On January 17, an explosive package was thrown at the windows of a Shi'a Muslim mosque in Buenos Aires. The blast caused significant damage to the Islamic bookstore located in front of the building and injured a police sergeant guarding the mosque. Following a government official's declaration, security was increased for all religious institutions. No progress has been made in the investigation into this attack, nor into the bomb threat reportedly received 2 days later by the San Justo Islamic Cultural Center in Buenos Aires.

In April Alberto Merenson, a retired musician and former director of the Symphonic Orchestra of San Juan Province, was the victim of a letter bomb. Merenson was injured and his home was damaged. A swastika was found inside the box. No progress was made in the investigation of this crime by year's end.

On May 20, the Secretary for Security for the Ministry of Interior, Dr. Enrique Mathov, was the target of anti-Semitic remarks and shouts while attending the funeral of a member of the Federal Police. No charges were brought in this case. In October political activist Hebe de Bonafini referred to prominent human rights activist and journalist Horacio Verbitsky as a Jew in a derogatory fashion in a news magazine interview. No charges were filed.

Since it reopened in 1999, there have been several telephoned bomb threats, including two during the year, made against the new AMIA Jewish community center building (which replaced the one destroyed by the bombing in 1994). No one has taken responsibility for the bomb threats, nothing was found in the building on these occasions, and there were no results from the formal investigations into the bomb threats.

In 2000 President de la Rúa committed the Government to implementing a Holocaust Education Project to be carried out under the auspices of the International Holocaust Education Task Force. Pursuant to that commitment, in 2000 the Government appointed a special representative to the task force, began a number of projects including a Holocaust monument in Buenos Aires, and donated a building for a Museum of the Shoah. The Ministry of Education is working to include Holocaust education in primary and secondary schools, and the schools now commemorate a national day of tolerance on April 19. In April the Government renewed the charter of the National Commission for Clarification of Nazi Activities (CEANA), in order to enable CEANA to continue its investigations into past pro-Nazi actions on the part of the country.

The investigation into the 1992 bombing of the Israeli Embassy in Buenos Aires has come to a virtual standstill. However, the investigation to find those directly responsible for the 1994 bombing of the AMIA Jewish community center (in which 85 persons died) continued during the year. In June a team of foreign investigators visited to work jointly with Argentine legal and judicial authorities involved in the AMIA bombing in reviewing the investigation.

On September 24, the public trial of alleged Argentine accomplices to the 1994 bombing of the AMIA Jewish community center began in Buenos Aires (see Section 1.a.). The 20 defendants, among them 15 former Buenos Aires province police officers, are charged with aiding the actual perpetrators of the bombing by supplying the stolen van used to carry the bomb. The police defendants face charges of various acts of corruption related to the stolen van.

In March the Supreme Court reopened a case in which a court sentenced three youths to 3 years in prison for a 1995 assault on a man whom they believed to be Jewish. In 1998 the court had found the youths to have acted in violation of the antidiscrimination statute and sentenced them to the maximum penalty provided by the law. In 1999 the appeals court overturned the conviction and ordered that the youths be retried. The Supreme Court decided to uphold the appeals court decision and directed that the three youths be retried. In December two of the three again were convicted and sentenced to 3 years in prison in the retrial. The third suspect failed to appear for the retrial.

National, Racial, and Ethnic Minorities.—Racist incidents are underreported, and racism often is denied to be a problem; however, members of racial minorities, such as those of African descent, report frequent cases of verbal insults and in some cases physical assaults on the streets of Buenos Aires.

Individuals of indigenous descent from the northern part of the country, as well as from Bolivia, Peru, and other Latin American countries, reportedly are also frequently subject to verbal insults because of their dark skin. First hand accounts by those who have been subject to incidents of racial prejudice indicate that this is a more common problem than is widely reported or recognized.

In March the U.N. Committee on the Elimination of Racial Discrimination expressed concern regarding reports throughout the country of police brutality committed on a variety of pretexts on grounds of race, color, or ethnic origin.

In January a Bolivian woman, Marcelina Meneses, and her 10-month-old Argentine son were insulted, then were pushed or fell from a suburban train. Both were killed. The Foreign Ministry's Human Rights Directorate reported that a prosecutor in Lomas de Zamora, Manuel Devoto, was investigating the case but that of the many witnesses to the incident, including a number of railroad employees, only one has been willing to testify. INADI was investigating the case.

According to press reports, in Mar del Plata, on January 17, a Nigerian street vendor was assaulted with a hammer and robbed by soccer fans shouting racist and xenophobic insults. The Nigerian reportedly declined to file a complaint. Other minorities have reported avoiding buses and other crowded public facilities out of fear of being subjected to racial harassment.

In March 2000, a woman of African descent, Elisa Souza de Melgarejo, and her grandson were assaulted verbally in a supermarket. When Souza de Melgarejo went to file a complaint with the police, she was advised by police to “save the paper.” Nonetheless, Souza de Melgarejo filed a complaint with INADI and a judge, who initially rejected the case, has charged the man accused of the threats.

In March the Government stated that two small neo-Nazi groups were operating in Buenos Aires. There were charges of attacks by skinheads on persons of African descent in Buenos Aires.

In March the director of INADI informed the U.N. that some teachers had been trained on the importance of teaching the elimination of racism. There also have been antiracist publicity spots shown in football stadiums, as well as radio advertisements dealing with antiracist subjects.

Early in the year, the Argentine Soccer Association established rules to stop or cancel games when any ethnic incidents or taunting erupts, such as anti-Semitic and anti-immigrant incidents that have occurred at soccer matches in the past several years. Since its implementation, this measure reportedly has had considerable success in reducing discriminatory acts and behavior at soccer matches.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right to form “free and democratic labor unions, recognized by simple inscription in a special register,” and unions exercise this right. With the exception of military personnel, all workers are free to form unions. An estimated 35 percent of the work force is organized. Trade unions are independent of the Government and political parties, although many union leaders traditionally have supported the Justicialist Party. Most unions are affiliated with one of the two factions of the General Confederation of Labor (CGT). A smaller federation, the Argentine Workers’ Central, also is recognized legally.

The International Labor Organization’s (ILO) Committee of Experts has criticized a law that allows only one union per industrial sector to negotiate salary, collect dues, and call a strike. The law makes it virtually impossible for new unions to challenge existing unions, thus giving the established unions a monopoly on these fundamental powers of representation. In late 2000, the Labor Minister formed a tripartite commission to analyze the ILO observations, but there have been no reported developments.

The Constitution provides for the right to strike, and this right is observed in practice. Four national general strikes took place during the year and numerous smaller scale strikes were held, including one by public school teachers in Buenos Aires Province, which closed schools for a month in August. The major strikes were generally protests against the economic model or specific government austerity measures aimed to balance the federal budget.

Groups of unemployed and underemployed workers, retirees, and unions around the country frequently demonstrated and used roadblocks as acts of protest. Hundreds of incidents took place during the year. Many of the roadblocks were carried out by groups of impoverished persons demanding federal and provincial unemployment payments or job subsidies. The roadblocks usually were organized by political or labor leaders. While most roadblocks were resolved by negotiated settlements, sometimes including promises of extended or expanded unemployment programs, a number ended in confrontations between the police and strikers. Two persons were killed in Salta Province in association with such a confrontation (see Sections 1.a., 1.c., and 2.b.). There was a peaceful general strike on December 13 (see Section 2.b.).

Unions are free to join international confederations without government restrictions; many unions also are active in international trade secretariats.

b. The Right to Organize and Bargain Collectively.—The Constitution provides unions with the right to negotiate collective bargaining agreements and to have recourse to conciliation and arbitration. The Ministry of Labor, Employment, and Human Resources Formation ratifies collective bargaining agreements, which cover roughly three-fourths of the work force. According to the ILO, the ratification process impedes free collective bargaining because the Ministry not only considers whether a collective labor agreement contains clauses violating public order standards, but also considers whether the agreement complies with productivity, investment, technology, and vocational training criteria. However, there were no known cases during the year when the Government refused to approve any collective agreements under the above criteria.

The Labor Reform Law, which went into effect in May 2000, allows collective bargaining on a regional, provincial, or company basis depending on what the local union and company decide.

The new law also established a mediation service, which is yet to be implemented. A conciliation service, which began operation in 1997, has helped reduce the number of labor disputes in courts by 60 percent. Foreign experts conducted a 1-week training in mediation for labor professionals, particularly government officials, in Cordoba Province in November.

The Labor Reform Law lengthened the probationary period for new workers to between 90 and 120 days for large companies and to between 6 months and 1 year for small businesses. The reform law also ended the practice known as "ultra-activity," which allowed existing labor contracts to be renewed if the parties did not come to terms on a new agreement.

The reform legislation, which some labor unions strongly opposed, led to an inconclusive investigation into alleged bribes to key Senators to vote in favor of the legislation. The Government has not yet fully adopted implementing regulations for the labor reform law, and there is no clear indication of when they are to be completed. Given the lack of full implementation and the severe economic recession, it is difficult to judge the impact of the labor reform law.

The law prohibits antiunion practices, and the Government generally enforces this prohibition in practice.

There are three functioning export processing zones with many others legally registered but not active. The primary commercial advantages of these zones are related to customs and duty exemptions. The same labor laws apply within these zones as in all other parts of the country.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, some illegal workers, particularly Bolivians, are duped with fraudulent promises and end up in conditions of forced labor with poor pay and working conditions, and there were reports that women were trafficked to the country (see Section 6.f.). The law also prohibits forced and bonded labor by children, and there were no reports that such practices occurred during the year; however, children have been trafficked to the country in the past for prostitution and labor (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The education law requires that children attend school until the age of 15, effectively prohibiting employment of children under 15; however, other laws are inconsistent and child labor is a problem. The labor laws still allow children to work at the age of 14 and in rare cases the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 15 and 16 may work in a limited number of job categories, but not more than 6 hours a day or 35 hours a week. The penalty for employing underage workers ranges from \$1,000 to \$5,000 (1,000 to 5,000 pesos) for each child employed.

According to the ILO/IPEC, 6.47 percent of children between the ages of 10 and 14 work. Local NGO's note that the figure is imprecise and could be as high as 10 percent. In 1999 in the greater Buenos Aires area, 12,500 children age 14 and below were in the work force. In a 1997 report, UNICEF stated that 252,000 children between the ages of 6 and 14 were employed—183,500 in urban areas and 68,500 in the country—principally harvesting tea and tobacco. An August 2000 UNICEF report on adolescents found that, for children between ages 13 and 17, 3 percent were in school and also economically active; 7 percent were not in school but were economically active; 84 percent were only in school; and 6 percent were neither in school nor working. A survey of street children conducted in April and May by the City of Buenos Aires found that nearly 80 percent of the children surveyed carried out some economic activity (see Section 5). Of the children surveyed, 42 percent engaged in begging, 20 percent in trash recycling; 14 percent in sales; 10 percent worked opening taxi doors; and 1.2 percent engaged in theft and prostitution. Three-quarters of those surveyed said that they were working to help their families.

In 2000 the President formally established a National Commission for the Eradication of Child Labor to work with the Government, organized labor, the business community, religious groups, UNICEF, and NGO's. During the year, the Commission was active. It signed several sectoral agreements to study and address child labor problems with labor and industry organizations, including those involved in clothing, footwear, agriculture, and construction. The Commission also designed a labeling program, held seminars and workshops, sponsored a conference on child labor in refuse recycling, and developed a model approach to eliminate children's participation in informal refuse recycling.

In September the Buenos Aires provincial government issued a decree that police detain children begging in public places. However, due to opposition to the measure from children's advocates and even sectors of the provincial government, the decree was suspended almost immediately, although it was not revoked.

The Government prohibits forced and bonded child labor, and there were no confirmed reports of its use during the year; however, in the past children have been trafficked to the country for labor and prostitution (see Sections 6.c. and 6.f.).

e. Acceptable Conditions of Work.—The monthly national minimum wage is \$200 (200 pesos), which is not sufficient to provide a decent standard of living for a worker and family. It is determined by a tripartite committee and has not been changed for at least 6 years. However, few workers in the formal sector make the minimum wage; according to a prominent labor expert, the estimated average income of a laborer is roughly \$550 (550 pesos) per month. Those employed full time in the informal sector are estimated to make closer to \$370 (370 pesos) a month.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime payment is required for hours worked in excess of these limits. The law also sets minimums for periods of rest and paid vacation. However, laws governing acceptable conditions of work are not enforced universally, particularly for workers in the informal sector who constitute about 40 percent of the work force.

Employers are required by law to insure their employees against accidents at the workplace, and when traveling to and from work. In December 2000, a presidential decree increased the maximum cash payments and maximum total payments for workers' compensation in an effort to strengthen worker protections. Workers have the right to remove themselves from dangerous or unhealthful work situations, after having gone through a claim procedure, without jeopardy to continued employment. Nonetheless, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

f. Trafficking in Persons.—Although there are no laws specifically addressing trafficking in persons, other laws are used to prosecute crimes associated with trafficking, such as kidnapping, forced labor, use of false documents and prostitution. Women have been trafficked to the country, primarily for prostitution, and children have been trafficked to the country in the past for prostitution and labor. Women and girls from Paraguay and the neighboring province of Misiones have been trafficked to Buenos Aires under the guise of working as domestic employees then forced into debt peonage and prostitution. Traffickers reportedly hold travel documents and occasionally threaten violence. There are credible reports that women brought from the Dominican Republic to work in Argentina sometimes have been coerced into prostitution. At least one complaint was filed with police in Buenos Aires in late December against an alleged trafficker for reportedly threatening to have a trafficked Dominican woman killed.

In 2000 two girls escaped from an Argentine brothel and returned to their homes. The Paraguayan authorities charged a number of Paraguayans with involvement in the case; however, at year's end, none had been convicted. An Argentine television station also conducted an investigation of prostitutes working in greater Buenos Aires and reported a number of undocumented Paraguayan women and girls working in slave-like conditions, offering their services as prostitutes in exchange for their clothing, room, and board. Some illegal workers are duped with fraudulent promises and then end up in what amounts to forced labor (see Section 6.c.).

According to unconfirmed press reports, in May 2000 the police found 15 Bolivian minors working under poor conditions in a textile factory in the Buenos Aires area. According to the same report, another five Bolivian minors were found later that month aboard a truck on the way to jobs harvesting and packaging onions near Bahia Blanca. Bolivian government representatives could not confirm the trafficking of children to work in Argentina but were investigating possible trafficking of Bolivian children through Argentina to Europe.

No new information was available on the apprehension in 1999 of two Argentine citizens who were charged by police in Spain with trafficking in women for purposes of prostitution.

Although the law does not specifically prohibit trafficking in persons, laws against child abuse provide penalties for trafficking children for purposes of prostitution, and other laws prohibit alien smuggling, indentured servitude, and similar abuses. In August a court sentenced the owner of a Buenos Aires nightclub and two employees to prison terms ranging from 3 to 7 years for illegal imprisonment, corruption of minors, and illegal weapons possession after a 1999 investigation found 15 women and 7 girls (minors), including Paraguayans, held captive by the group.

There are no government programs specifically to assist trafficking victims. The Government seldom detains immigrants on immigration-related charges.

BAHAMAS

The Commonwealth of the Bahamas is a constitutional, parliamentary democracy and a member of the Commonwealth of Nations. Queen Elizabeth II, the nominal head of state, is represented by an appointed Governor General. Prime Minister Hubert A. Ingraham's Free National Movement (FNM) has controlled the Government and Parliament since 1992. The judiciary is generally independent.

The national police force maintains internal security, and the small Royal Bahamas Defense Force is responsible for external security and some minor domestic security functions such as guarding foreign embassies and ambassadors; both answer to civilian authority. There continued to be reports that the police occasionally committed human rights abuses.

The country's population is approximately 305,000. The country has a developing economy that depends primarily on tourism, which accounts for one-half of the gross domestic product (GDP). In September a fire that broke out in Nassau's Straw Market totally destroyed the tourist landmark along with five other buildings, including the Ministry of Tourism; the economic losses of the fire were considerable. Financial services, particularly offshore banking and trust management, are also major sources of revenue. While many citizens enjoy relatively high income levels, there is considerable underemployment and poverty. The International Monetary Fund estimated that per capita GDP in 2000 was \$16,131. The unemployment rate was estimated at 7.8 percent during the year.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports that police occasionally beat and abused detainees, and prison conditions remain harsh. The police occasionally used arbitrary arrest and detention. Lengthy pretrial detention and delays in trials were problems. Violence and discrimination against women and violence against children also were problems. Discrimination against persons with disabilities and persons of Haitian descent persisted.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and other cruel and degrading treatment or punishment; however, the police occasionally beat and otherwise abused suspects. Many of the charges of abuse involved beatings to extract confessions. There were no formal complaints filed involving beatings to extract confessions during the year; however, in November a cab driver alleged that he was beaten by a Road Traffic Department Officer for ignoring an order to stop. The Road Traffic Department officer was charged for this offense. Human rights monitors and members of the public continued to express concern over such instances of police abuse against criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority, and pledged to address any wrongdoing by police officers. According to officials, defendants' rights were protected by trial judges (see Section 1.e.).

The Police Complaints and Corruption Branch, which reports directly to the Deputy Commissioner of Police, is responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the Attorney General. Local human rights observers doubt the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believe that many incidents of improper police behavior go unreported. In September an independent civilian was appointed by a decision of the Cabinet to oversee the Complaints and Corruption Branch. This civilian reports directly to the Minister of National Security and consults with the police commissioner. Police officials insist that their investigations are fair and thorough. There were 428 complaints against the police during the year, compared with 311 in 2000. Of these 428 cases, 205 remained under investigation at year's end, 29 were dismissed as unfounded, and 86 resulted in disciplinary action. Examples of disciplinary action include suspension without pay, fines, and dismissal. No officers were dismissed during the year because of alleged human rights abuses. Police officials believe that continuing turnover in personnel is a contributing factor in disciplinary cases. There are approximately 2,200 officers.

Corporal punishment is permitted by law with some restrictions; however, it was not utilized during the year. For example, caning is permitted at police stations but only if performed by a sergeant or higher ranking official. Cat-o-nine-tails are allowed at prisons but have not been used for several years.

Conditions at Fox Hill, the only prison, continued to improve but remain harsh. Overcrowding is a major problem. One of every 200 citizens is in jail. The men's maximum-security block, originally built in 1953 to house 400 to 600 inmates, holds over 700 of the prison's total of more than 1,400 inmates. The remaining prisoners are housed in medium- and minimum-security units that are at, or above, maximum capacity. Male prisoners are crowded into poorly ventilated cells that generally lack regular running water. Most prisoners lack beds. Many of them sleep on concrete floors and are locked in their cells 23 hours per day. There are no separate facilities for inmates being held on "remand" (detention pending trial or further court action), although some eventually are segregated in a medium-security wing after processing through maximum security. Two prisoners committed suicide at Fox Hill during the year. Prison authorities are considering ways to prevent such deaths in the future. All inmates are screened for infectious diseases, and prison officials estimate that about 7 percent of the incoming prison population is infected with the HIV virus. There were numerous escapes from Fox Hill prison, particularly by Cuban detainees (see Section 1.d.).

Organizations providing aid, counseling services, and religious instruction have regular access to inmates. The Government has provided limited funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials have instituted some technical and vocational programs, and correctional officers are undergoing instruction to become certified trainers, although the process is hindered by resource constraints. Modern training facilities are equipped with new computers, and the prison also offers some educational and literacy programs for prisoners. Construction on the new 80-cell maximum-security building was completed in September, but the facility is not scheduled to open until January 2002. This building, which is to have larger cells and more extensive plumbing, should relieve some of the overcrowding in the existing block. Prison officials plan to renovate the current maximum-security unit once the new building is in service. In March the National Security Minister announced that the ministry is inviting bids to provide strategic review and improvement to Fox Hill prison. Proposals for the strategic review include a 3-month investigation into the Fox Hill jail's organization, structure, personnel resources, management supervision, staff needs and benefits, involvement with police intelligence, inspections, policies and procedures, inmate rehabilitation, and conditions of release.

Women are held separately from male prisoners. The prison's female population is around 40 inmates, considerably less than the female unit's full capacity of 200. Facilities for women are less severe and have running water.

There is no separate facility for juvenile offenders; however, prison authorities attempt to place them with less violent criminals. The new maximum security building has a separate section for juvenile offenders.

Domestic and international human rights groups were able to visit the prison during the year.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, police occasionally arbitrarily arrest and detain persons. In general the authorities conduct arrests openly and, when required, obtain judicially issued warrants. The law provides that a suspect must be charged within 72 hours of arrest. The Government respects the right to a judicial determination of the legality of arrests.

Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. Arrested persons appear before a magistrate within 72 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Arrested persons may hire an attorney of their choice, but the Government does not provide legal representation except to destitute suspects charged with capital crimes. Some local legal professionals and human rights observers believe that this lack of representation risks hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants. However, there is no statistical evidence to indicate that this is more than an occasional problem.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges tend not to grant bail to foreign suspects, particularly on more serious offenses, since the authorities consider foreign offenders more likely to flee if released on bail. Judges sometimes authorize cash bail for foreigners arrested on minor charges, but in practice, foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays

in court cases and harsh conditions in the prison. Attorneys and other prisoner advocates continue to complain of excessive pretrial detention (see Section 1.e.). The Constitution mandates that suspects can be held for a “reasonable period of time” before trial, giving considerable flexibility. It is not unusual for a murder suspect to be held 2 years before trial, and on occasion the period has been up to 4 years.

The authorities detain illegal immigrants, primarily Haitians and Cubans, at the detention center located off Carmichael Road until arrangements can be made for them to leave the country, or they obtain legal status. The detention center, which had been closed for repairs since suffering extensive damage from Hurricane Floyd in 1999, reopened in December 2000. In the detention center, which can hold up to 600 detainees, women and men are housed separately. In early January, the number of illegal immigrants at the detention center reached 520 until Government authorities were able to arrange the repatriation of several hundred Haitians and Cubans. Haitians usually are repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. In addition to Haitians and Cubans, immigration authorities also housed illegal migrants from Nigeria, Jamaica, Panama, Ghana, India, Germany, and Sierra Leone. Many detainees are provided with food and other items by relatives and friends on a regular basis, and those who can arrange and finance their repatriation generally are deported much more quickly. Illegal immigrants convicted of crimes other than immigration violations are held at Fox Hill prison where they may remain for weeks or months after serving their sentences, pending deportation.

Exile is illegal and is not practiced.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

Magistrate’s courts are the lowest level courts and only handle crimes with a maximum sentence of 5 years. Trial by jury is available only in the Supreme Court, which is the trial court that handles most major cases. Its decisions may be appealed to the Court of Appeal; the Privy Council in London is the final court of appeal. The Governor General appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

The justice system derives from English common law. The Constitution provides for the right to a fair trial, and an independent judiciary generally enforces this right. However, the judicial system has a large backlog of cases, and delays reportedly can last as long as 2 years. To reduce the backlog, the Government continued the process of streamlining appeals, computerizing court records, and hiring new judges, magistrates, and court reporters. The Supreme Court established a task force to recommend further reforms in the court system and published a report in 1999 proposing modifications in the system to facilitate case flow management including the disposition of cases within 6 months of initial filing.

Despite these measures to improve efficiency, complaints persist of excessive pretrial detention, outdated record keeping, delayed justice for victims, and a failure to update new laws in the books. Some judges have been brought in from abroad; while familiar with English common law, they lack experience regarding Bahamian law and procedures. There were isolated complaints of deviations from normal, fair court proceedings—particularly in civil matters—but there were no indications that this was a widespread problem.

In 1999 the final appeals court ruled that death-row inmates appealing their sentences must be given the chance to be heard by bodies such as the U.N. Human Rights Committee and the Inter-American Commission on Human Rights.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respects these prohibitions in practice. The law usually requires a court order for entry into or search of a private residence, but a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation exists. Such an official also may authorize the search of a person (that extends to the vehicle in which the person is traveling) without a court order, should probable cause exist to suspect drug possession.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and press, and the Government generally respects this right in practice.

Three daily and several weekly newspapers, all privately owned, express a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines are readily available.

There is a government-run radio station and five privately owned radio broadcasters. The country's sole television station, the state-owned Broadcasting Corporation of the Bahamas (BCB), presents a variety of views, although opposition politicians claim, with some justification, that their views do not receive as extensive coverage as those of the Government. In January the Cabinet announced a complete change in the BCB, which oversees the government-owned ZNS television station.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedoms of assembly and association, and the Government generally respects these rights in practice. Groups must obtain permits to hold public demonstrations, and the authorities generally grant such permits.

The law permits private associations.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

There is no legislation governing the processing of asylum seekers, and applications for political asylum are supposed to be adjudicated on a case-by-case basis at the cabinet level. Trained immigration officials screen asylum applicants, and the UNHCR reviews the interview records and offers advice on certain cases. Local and international human rights observers have criticized the Government for failing to screen potential asylum applicants adequately. These organizations have claimed that some Cubans and Haitians with a legitimate fear of persecution were repatriated without first having the opportunity to make a claim for asylum. Although the repatriation agreement between the Bahamas and Haiti expired at the end of 1995, the Government continued to repatriate illegal Haitian immigrants based on the terms of that agreement. The Government signed a repatriation agreement with Cuba in 1998.

The Department of Immigration reported that as of September 4,548 Haitian and 30 Cuban citizens had been repatriated, out of a total of 5,474 repatriations. A total of 23 persons requested asylum during the year, and 2 were recommended for refugee status. The two refugee cases were pending at year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a constitutional, parliamentary democracy with two major political parties and general elections at least every 5 years. An elected Prime Minister and Parliament govern. The political process is open to all elements of society, and citizens 18 years of age and older are eligible to register and vote. Voting is by secret ballot. The two principal political parties are the ruling Free National Movement and the opposition Progressive Liberal Party (PLP). In June Prime Minister Ingraham announced that he was declining the FNM's invitation to serve a third term. The FNM won general elections in 1992 and 1997. It holds 35 of 40 seats in the House of Assembly, and the PLP holds 4. The Coalition for Democratic Reform (a splinter party from the PLP) holds one seat. Both the ruling party and the opposition name members to the upper house, the Senate, in compliance with constitutional guidelines. Although it does pass legislation, the Senate is primarily a deliberative body that serves as a public forum to discuss national problems and policies.

There are no legal impediments to participation by women in government and politics; however, the percentage of women (or minorities) in government and politics does not correspond to their percentage in the population. The 40-seat House of Assembly has 6 elected female members, including the Speaker of the House, and 6 appointed female Senators, including the government leader in the Senate. The Minister of Foreign Affairs, Janet Bostwick, also directs the Bahamian Bureau of Women's Affairs. A woman also heads the Ministry of Public Service and Cultural Affairs.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operate without government restriction, investigating and publishing their findings on

human rights cases. Government officials are very cooperative and responsive to their views.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Government generally respects in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or sex. However, the Constitution and the law contain certain provisions that discriminate against women.

Women.—Violence against women continues to be a serious, widespread problem. Government crime statistics do not separate domestic violence from other incidents of violence. The Government operates a nationwide toll-free hot line, with two trained volunteers on each of the inhabited islands who are on call to respond in the event of a crisis. Government and private women's organizations conduct public awareness campaigns highlighting the problems of abuse and domestic violence. In November 2000, the Department of Social Services in partnership with a private company established, for the first time, two safe houses to assist battered women. The Domestic Court, which exclusively addresses family issues such as spousal abuse, maintenance payments, and legal separation, continued to receive a high volume of cases. The court can and does impose various legal constraints to protect women from abusive spouses or companions. However, advocates for women's rights see a need to improve the effectiveness of enforcement of the court's orders. They cite a general reluctance on the part of law enforcement authorities to intervene in domestic disputes and a lack of police training and sensitivity in dealing with domestic violence. The police have recognized domestic violence as a high priority and have provided specialized training to more than 200 officers, with plans to expand this training. Women's rights activists have noted that the new training the police have received, and believe that it has been a positive development.

The Constitution discriminates against women by not providing them with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favor men over women. For example, when a person dies without a will, the estate passes to the oldest legitimate son, or in cases where there is no son, the closest legitimate male relative. Prominent women of all political persuasions continue to push for an amendment to the Constitution and related laws to redress this situation. Legislation to amend the Constitution and eliminate this discrimination was before the House of Assembly at year's end.

Women participate fully in society and are well represented in the business and professional sectors.

Children.—The Government places a priority on providing adequate funding for child welfare and education. Public education is compulsory for children through the age of 16, and most children attend school until this age.

Both the Government and civic organizations have conducted intensive public education programs aimed at the problem of child abuse and appropriate parenting behavior; however, child abuse and neglect remain serious problems. There were 101 reports of sexual abuse of minors, 13 reports of incest, 18 reports of physical abuse, 83 reports of child neglect, and 9 cases of child abandonment as of December.

The law requires that all persons who have contact with a child they believe to be abused sexually report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believe occurs quite frequently. The police refer reported cases of sexual and physical abuse to the Department of Social Services, which investigates them and can bring criminal charges against perpetrators. The Department may remove children from abusive situations if the court deems it necessary.

Persons with Disabilities.—Although the 1973 National Building Code mandates certain accommodations for persons with physical disabilities in new public buildings, the authorities rarely enforce this requirement. There is no overarching disability act. There are housing units in Nassau designed specifically for persons with disabilities, but very few buildings and public facilities are accessible to persons with disabilities. The code also fails to mandate accommodations in new private buildings, which often lack accessibility as well. Advocates for persons with disabilities complain of widespread job discrimination and general apathy on the part of private employers and political leaders toward their need for training and equal opportunity. They note that there is no overarching legislation to implement and enforce equal opportunity policies in the workplace, educational institutions, or elsewhere.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance works with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations that offer services for persons with disabilities, to provide a coordinated public and private sector approach to the needs of persons with disabilities. A mix of government and private residential and nonresidential institutions provides a range of education, training, counseling, and job placement services for both physically and mentally disabled adults and children.

National/Racial/Ethnic Minorities.—Unofficial estimates suggest that between 20 and 25 percent of the population are Haitians or citizens of Haitian descent, making them the largest and most visible ethnic minority in the islands. While 30,000 to 40,000 Haitian citizens reside in the country legally, some observers believe that similarly large numbers are in the country illegally.

Although Haitians and Bahamians of Haitian descent generally are well integrated into society, interethnic tensions and inequities persist. Some members of the Haitian community complain of discrimination in the job market, and resentment of continued Haitian immigration is widespread. However, reports of ethnic violence or blatant discrimination against legally resident Haitians are scarce. Leaders of the Haitian community approve of the Government's approach to the repatriation of illegal migrants and point to the high number of ethnic Haitians in the public service.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides labor unions with the right of free assembly and association, and the Government generally respects these rights in practice. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Workers exercise the right of association extensively, with almost one-quarter of the work force (and 80 percent of the workers in the important hotel industry) belonging to unions.

In April a court of appeal ordered City Markets, Ltd. to allow its workers to join the union of their choice. City Markets and the union had been locked in legal battles since 1996 when City Markets disagreed with then-Minister of State for Public Service and Labor, David Thompson, who held that the union was entitled to be recognized as the bargaining agent for the nonmanagerial employees of City Market.

On November 15, the newly formed Bahamas Financial Services Union received a certificate of recognition officially acknowledging it as the bargaining union for nonmanagement bank employees of Barclays Bank PLC. Bank employees facing the pending merger of Barclays Bank PLC and the Canadian Imperial Bank of Commerce formed the union.

Three major umbrella labor organizations—the National Workers Council of Trade Unions and Associations, the Trade Union Congress, and the National Congress of Trade Unions—along with individual labor unions, all function independently of government or political party control.

The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Department of Labor must supervise the vote. Unions threatened several work stoppages against both public and private employers during the year. In March a total of 27 air traffic controllers were placed on administrative leave and removed from the air traffic control tower at Nassau International Airport for engaging in industrial actions while negotiations were in progress, contrary to a negotiated agreement with the Government. Following the suspensions, the Bahamas Air Traffic Controllers Union received the backing of two major labor confederations. The union claimed that replacement air traffic controllers were unqualified and caused dangerous conditions at Nassau International Airport. The Air Traffic Controllers Union returned to work on June 26.

In order to resolve trade disputes more quickly, in 1996 Parliament amended the Industrial Relations Act to establish an industrial tribunal. According to the Act, labor disputes first are filed with the Ministry of Labor and then, if not resolved, are turned over to the tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross-examination. The tribunal's decision is final and can only be appealed in court on a strict question of law. Some employers complain that the industrial tribunal is biased unfairly in favor of employees.

All labor unions have the right to maintain affiliations with international trade union organizations.

b. The Right to Organize and Bargain Collectively.—Workers freely exercise their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiate wage rates without government interference.

The Constitution and the Industrial Relations Act prohibit antiunion discrimination by employers. The act requires employers to recognize trade unions, and it requires the reinstatement of workers fired for union activities. Employers may dismiss workers in accordance with applicable contracts, which generally require some severance pay. The Government enforces labor laws and regulations uniformly throughout the country.

Freeport is a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates assert that the Port Authority has allowed the Hong Kong-based company Hutchinson-Whampoa, which now owns the harbor, airport, and many major hotels in Freeport, to discourage unions.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor by all persons, including children, and such labor does not exist in practice.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits the employment of children under the age of 14 for industrial work or work during school hours. Children under the age of 16 may not work at night. There is no legal minimum age for employment in other sectors, and some children work part time in light industry and service jobs. On June 14, the Government ratified the International Labor Organization's Convention 182 on the worst forms of child labor. The constitutional prohibition of forced and compulsory labor, including that by children, is respected in practice (see Section 6.c.).

e. Acceptable Conditions of Work.—The Fair Labor Standards Act permits the creation of a Wages Council to recommend the setting of a minimum wage, but the Government never has established such a council or a general minimum wage. However, in 2000 the Government established a minimum wage of \$4.66 (B\$4.66) per hour for all hourly and temporary workers throughout the public sector. There is no minimum wage in the private sector. In view of the high cost of living, this wage alone does not provide more than a subsistence living for a worker and family. The Act limits the regular workweek to 48 hours, provides for one 24-hour rest period, and requires overtime payment (time and a half) for hours beyond the standard.

The Ministry of Labor is responsible for enforcing labor laws and has a team of inspectors who conduct on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints; however, inspections occur infrequently. The Ministry normally announces inspection visits in advance, and employers generally cooperate with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The Fair Labor Standards Act requires employers to find suitable alternative employment for employees injured on the job but still able to work. The law does not provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons; however, the Penal code bans prostitution and prohibits the detention of persons against their will and for immoral purposes. There were no reports that persons were trafficked to, from, within, or through the country, and the Government has not prosecuted any cases against traffickers.

BARBADOS

Barbados is a constitutional democracy with a multiparty, parliamentary form of government and is a member of the Commonwealth of Nations. The Queen is head of state and is represented by an appointed Governor General. Prime Minister Owen Arthur of the Barbados Labour Party (BLP) is the head of government and governs with an appointed cabinet. The judiciary is generally independent.

The Royal Barbados Police Force is charged with maintaining public order. The small volunteer Barbados Defense Force (BDF) is responsible for national security and can be employed to maintain public order in times of crisis, emergency, or other specific need; the BDF supported the police during the year. Police committed some human rights abuses.

The country's population is approximately 275,000. The economy is based on tourism, services, light manufacturing, and agriculture. The country has registered 8 successive years of sustained economic growth. Tourism increased by 8 percent in 2000, and foreign reserves rose to \$500 million (BDS\$1 billion). Per capita gross domestic product (GDP) was \$9,667 in 2000. Real GDP growth in 2000 was 3.7 percent, compared with 2.3 percent in 1999. The Central Bank projected an economic growth rate of 2.5 percent during the year. The unemployment rate was 9 percent.

The Government generally respects constitutional provisions regarding human rights; however, there were problems in a few areas. There continued to be occasional instances of excessive use of force by police. Societal violence against women and children are problems. There was also an increase in spousal abuse during the year.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution specifically prohibits torture and cruel, inhuman, or degrading treatment or punishment; however, credible reports continued that law enforcement officials sometimes used force during detention to extract confessions from detainees.

In March students at the University of the West Indies barricaded the main campus road and clashed with the police; there were reports that police in riot gear attacked students (see Section 2.b.). Lawyers for the students filed assault charges against one police officer. Following the incident, then-Attorney General David Simmons called for improved training of the police force and sponsored a bill to establish an independent police review body.

In 2000 the Police Commissioner promised to investigate the alleged beating of a prisoner being held by police on a marijuana charge after his mother stated on a radio program that the police had mistreated her son brutally. No further information was available about the status of any investigation at year's end.

In May the press reported that a magistrate dismissed, for lack of prosecution witnesses, the outstanding case against five police officers charged in 1998 with committing serious bodily harm and assault occasioning actual bodily harm against two foreigners. The Government's prosecutor requested an adjournment and additional time to contact the plaintiffs; however, the motion was dismissed.

The majority of complaints against the police allege unprofessional conduct and beating or assault. While the police force has a complaints and discipline department headed by a superintendent to deal with matters of inappropriate police conduct, there is no independent body to review complaints against the police. However, in 1998 the Attorney General instituted a working group, which in 2000 submitted recommendations to the Cabinet regarding the establishment of an independent complaints authority. The legislation, which would establish an independent body to address complaints about police abuse, was debated in Parliament but had not been approved by year's end.

Police procedures provide that the police may question suspects, and other persons they hold, only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit detainees at least once every 3 hours to inquire about the detainees' condition. After 24 hours, the detaining authority must submit a written report to the Deputy Commissioner. The authorities must approve and record all movements of detainees between stations. The authorities generally adhere to these basic principles, although officials occasionally used excessive force.

For a decade, the authorities have issued firearms to special foot patrols in high crime areas in response to public concern. In 2000 the Attorney General created an armed special rapid response unit, which continued to operate during the year. Aside from this exception, the police force is mostly unarmed, in keeping with its British traditions. A joint unit with the BDF also was active during the year, including during the annual "Crop Over" carnival period. This unit usually is created, by law, for a specific period of time and purpose on the authority of the Governor General and remains under the control of the police.

In 2000 the Government created a special task force to address illegal weapons and crimes involving firearms, and during the year Parliament amended the Firearms Act to make possession of an illegal weapon a serious felony punishable by a fine of up to \$125,000 (BDS\$250,000) or imprisonment for 20 years.

Prison conditions are very inadequate. The sole prison (Glendairy) is antiquated and overcrowded, with more than 700 male and 92 female inmates in a 150-year-old structure built for 350 inmates. The Caribbean Human Rights Network confirmed that alternatives to imprisonment (such as community service) to alleviate the problem of severe overcrowding, which were codified and first implemented in 2000, continued to be implemented during the year. In December the authorities suspended 14 prison officers, including the acting Chief Officer and two senior aides, following an investigation into the alleged beating of 36 inmates in November.

There are separate areas for pretrial detainees and convicted prisoners at the prison; however, there is occasional mixing due to space constraints.

There is a separate wing for female prisoners at the prison, and there are separate detention facilities for boys and girls.

The Government allows private groups to visit prisons to ascertain conditions.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and imprisonment and requires detainees to be brought before a court of law within a reasonable time, and the Government generally respects these provisions in practice. Criminal defendants have the right to counsel, and attorneys have ready access to their clients.

The Constitution prohibits the use of exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and it is generally free of intervention by other branches of government.

The judiciary includes the Supreme Court, which consists of the high court and court of appeal. The Governor General, on recommendation of the Prime Minister and after consultation with the leader of the opposition, appoints the Chief Justice and other judges. Judges serve until the age of 65.

The Constitution provides that persons charged with criminal offenses be given a fair public hearing within a reasonable time by an independent and impartial court, and the Government generally respects this right in practice. The judicial system provides for the right of due process at each level. The law presumes defendants innocent until proven guilty.

In 2000 Parliament approved a package of new legislation intended to strengthen the powers of law enforcement officials. One of the new laws allows the Director of Public Prosecutions to appeal sentences in criminal cases that he considers too lenient.

The Government provides free legal aid to the indigent, with the exception of a limit of approximately \$2,150 (A1,300) on expenses incurred for appeals by death row prisoners to the Privy Council in London. Two inmates have challenged this limit and are suing the Government on the grounds that it effectively deprives them of their right to due process.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits arbitrary entry, search, or seizure, and the law requires warrants to be issued before privately owned property may be entered and searched. The Government does not interfere routinely in the private lives of its citizens; however, the police sometimes resorted to searches of homes without warrants.

The Government does not censor mail. However, the Government restricts the receipt of foreign publications deemed to be pornographic. Other foreign publications of a nonprurient nature are allowed without restriction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. There are two independent daily newspapers, both of which present opposition political views. The Government regularly comes under criticism in the newspapers and on daily call-in radio programs. There are six radio stations, two of which are owned by the Government. The Caribbean Broadcasting Corporation (CBC) television service (the only television source, excluding direct satellite reception) is government-owned. Although CBC is a state enterprise, it regularly reported views opposing government policies. Critics allege that the Government sometimes uses its influence to discourage media reporting on sensitive issues, but the press remained vigorously critical of the Government on a broad range of issues. The Government prohibits the production of pornographic materials.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly and the Government generally respects this right in practice; however, there was one case in which police used force against protesters. Political parties, trade unions, and private organizations function and hold meetings and rallies generally without hindrance.

The Public Order Act of 1970 requires police approval for public assemblies; previously it had been enforced rarely. However, in March students at the University of the West Indies, demonstrating to address campus issues, barricaded the main campus access road and clashed with police. Police, some in riot gear and on horseback, arrested a clerk, eight law students from across the Caribbean, and a law lecturer, Dr. Rose-Marie Antoine (the wife of St. Lucia's Prime Minister). Following the arrests, print media reported that police in riot gear attacked students. The incident

prompted negative reaction from some regional governments, officials, and parents (see Section 1.c.). Student leaders, a group of lecturers, and supporters accused the police of abuse, brutality, and the use of excessive force. The authorities charged the students and lecturer with impeding the public road access by barricading the main campus access road in violation of the Road Traffic Act; lawyers for the students filed assault charges against a police officer and also filed a constitutional motion asserting that statements made by the Prime Minister prejudiced their chances of a free trial. At year's end, the motion had not yet been heard, and all parties remained free on bail.

The Constitution provides for the right of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice. Citizens and legal residents move freely within the country and leave and enter it without restriction.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have this right in law and exercise it in practice. Political parties compete in free and fair elections by secret ballot at least every 5 years. In the 1999 elections, the BLP won a decisive victory, gaining a 26-to-2 majority over the Democratic Labour Party. Traditionally, the ruling party has fared badly in by-elections, but in a parish by-election in September the BLP representative gained 68 percent of the vote. There are no impediments to participation in the political process, and all citizens over the age of 18 may vote. The Prime Minister exercises executive power along with the Cabinet of Ministers that he appoints, balanced by the bicameral Parliament and the judicial system.

The percentage of women in government or politics does not correspond to their percentage of the population. There are four female members of the Cabinet and Parliament; the Deputy Prime Minister, who also serves concurrently as Foreign Minister, is a woman, as is the former Minister of Education, who became the Attorney General in August. As part of a September cabinet reshuffle by the ruling party, a female former senator was appointed as the Minister of State in the Ministry of Education, and a female former Minister of Health was reinstated as the Minister of Physical Development and the Environment. The Attorney General was named third in command of the Government.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Local groups involved with human rights operate freely and without government hindrance. The Caribbean Human Rights Network, a Caribbean-wide human rights organization which has its headquarters and a small staff in Barbados, investigates and reports on allegations of human rights violations throughout the region. However, at year's end, this organization reported that it was on the verge of disbanding and had curtailed active investigations, due to a lack of funding.

The government Ombudsman's office hears complaints against government offices for alleged injuries or injustices resulting from administrative conduct. The Governor General appoints the Ombudsman on the recommendation of the Prime Minister in consultation with the Leader of the Opposition; Parliament must approve the appointment. The Ombudsman serves a 5-year term, which may be extended for 1 additional year. The office is prohibited from involvement in issues involving foreign affairs, immigration questions, and certain other matters. The office can investigate complaints of inappropriate behavior by police.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal treatment under the law, regardless of race, religion, or sex. The Government generally respected these rights in practice.

Women.—Violence and abuse against women continued to be significant social problems. Few statistics are available to illustrate the magnitude of the problem; according to the Nation newspaper, there was an increase in spousal abuse during the year. Women's rights groups report that victims of sexual assaults, domestic violence, incest, and rape are often reluctant to report such incidents. Spousal abuse

remained a significant criminal activity during the year. According to press reports, a union official asserted that 30 percent of women are abused by their husbands or companions.

The Domestic Violence Law specifies the appropriate police response to domestic violence, which is intended to protect all members of the family, including men and children. It applies equally to marriages and to common law relationships. Criminal penalties for violent crimes, in theory, are the same regardless of the sex of the offender or the victim. However, in practice the Director of Public Prosecution has noted that female offenders usually receive lighter sentences than their male counterparts for similar offenses. The courts heard a number of cases of domestic violence against women involving assault or wounding. Victims may request restraining orders, which the courts often issue. The courts can sentence an offender to jail for breaching such an order.

Press accounts report that the number of complaints of rape made to the police has declined in the past several years. Spousal rape is not a crime, despite efforts by a nongovernmental organization to have such a law enacted. In September a high court judge criticized the fact that sentences for incest are sometimes less than those for rape and petty theft. There are public and private counseling services for victims of domestic violence, rape, and child abuse. The Business and Professional Women's Club runs a crisis center staffed by 30 trained counselors and provides legal and medical referral services. The center also has a hot line for clients who wish to maintain their anonymity. The Government established a shelter for battered women, which opened in 1999 and accommodates 20 women and children; there are plans to expand the shelter to accommodate demand for its services. The shelter offers psychological and physiological counseling by trained counselors to victims of domestic violence. The counselors accompany victims to the hospital and other agencies if necessary.

Prostitution is illegal, but it is a problem, fueled by poverty and tourism.

Sexual harassment in the workplace is a problem, but no statistics were available. The new Bureau of Gender Affairs reported that it had received three complaints of sexual harassment late in the year. The Labor Ministry was considering draft legislation aimed at preventing sexual harassment in the workplace. In addition, the Barbados Workers Union began to seek guidelines on sexual harassment in contracts and agreements it concludes with employers.

Women actively participate in all aspects of national life and are well represented at all levels of both the public and private sectors. They form a large percentage of heads of household and are not discriminated against in public housing or other social welfare programs.

The National Organization of Women is an affiliate of the Caribbean Women's Association, a regional women's organization.

Children born overseas and out of wedlock to Barbadian men are considered citizens. However, Barbadian women married to non-Barbadian men were unable to confer citizenship on their children. Although an act of Parliament in 2000 provided that a child born to a male or a female citizen has immediate citizenship, the act had not yet entered into effect at year's end, and it was not clear if it would be applied retroactively.

Children.—The Government is committed to children's human rights and welfare, although violence and abuse against children remain serious problems. The Government provides for compulsory education until the age of 16. The national health insurance program provides children with free medical and dental services for most medical conditions. The Child Care Board has a mandate for the care and protection of children. This involves investigating cases of child abuse or child labor, the provision of counseling services, residential placement, and foster care. Statistics from the Child Care Board show that between April 2000 and March, there were 769 reported cases of alleged child abuse and neglect. The Welfare Department offers counseling on a broad range of family-related issues, and the Child Care Board conducts counseling for victims of child abuse.

Persons with Disabilities.—The law does not prohibit discrimination against the physically disabled in employment, education, or the provision of other state services. However, the Ministry of Labor established the Disabilities Unit to address the concerns of persons with disabilities and created an advisory committee on disabilities. The Labor Department, a unit within the Ministry that finds jobs for the disabled, has long advocated the introduction of legislation prohibiting discrimination. In 2000 the Government, labor leaders, and the private sector jointly announced an agreement to promote a code of practice for the employment of persons with disabilities, as part of these groups' continuing social partnership. They also agreed to establish targets and time frames for the employment of persons with disabilities in

the private and public sectors. At year's end, the unit met its target of finding employment for 25 persons; however, only 8 had been hired on a full-time basis.

While there is no legislation mandating provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department sets provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings have ramps, reserved parking, and special sanitary facilities for such persons.

Section 6. Worker Rights

a. The Right of Association.—Workers freely exercise their right to form and belong to trade unions, and to strike. Approximately 30 percent of the labor force belong to trade unions. Overall union membership declined slightly during the years due to job losses in some industries. There are two major unions and several smaller ones, representing various sectors. The public service union, the National Union of Public Workers, is independent of any political party or the Government. Some officers of the largest union, the Barbados Workers' Union, are associated personally with the Democratic Labour Party. Most unions belong to the Congress of Trade Unions and Staff Associations.

The law accords full protection to trade unionists' personal and property rights. All private and public sector employees are permitted to strike, but essential workers may strike only under certain circumstances and after following prescribed procedures. The International Labor Organization (ILO) has criticized the Better Security Act of 1970, which provides that persons who break a contract are liable for 3 months' imprisonment, on the grounds that it could be invoked in the case of a strike. The ILO asked that it be amended; the Government has not taken any action to do so.

In July 2000, the nonunion Barbados Police Association supported the police in a labor action over unfulfilled promises of increased wages and increased allowances. As of year's end, the Government stated that complete reappraisals of civil service salary scales and the weight attached to various positions were still in process. The Government insists that the police should be included in this exercise and that they should not receive special treatment. In the interim, in keeping with promises made by the then-Attorney General, Parliament approved an allowance package for certain ranks of the police force.

Trade unions are free to form federations and are affiliated with a variety of regional and international labor organizations. The Caribbean Congress of Labor has its headquarters in Barbados.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively. Normally, wages and working conditions are negotiated through the collective bargaining process, but in 1993 the Tripartite Prices and Incomes Policy Accord established a 2-year wage freeze. A revised (second) protocol contained provisions for negotiated increases in basic wages and increases based on productivity, which covered 1995–97. In 1998 the tripartite partners signed a third protocol covering 1998–2000, which was broadened to address the needs of workers with disabilities and to express support for international efforts against child labor.

Employers have no legal obligation to recognize unions under the Trade Union Act of 1964, but most do so when a significant percentage of their employees express a desire to be represented by a registered union. While there is no specific law that prohibits discrimination against union activity, the courts provide a method of redress for employees who allege wrongful dismissal. The courts commonly award monetary compensation but rarely order reemployment. New legislation that would address the union recognition process had been pending for approximately 3 years at year's end.

There are no manufacturing or special areas where collective bargaining rights are legally or administratively impaired. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced, compulsory, or bonded labor, including that by children, and there were no reports of its occurrence during the year.

d. Status of Child Labor Practices and Minimum Age for Employment.—The legal minimum working age of 16 is broadly observed. Compulsory primary and secondary education policies reinforce minimum age requirements (see Section 5). The Labor Department has a small cadre of labor inspectors who conduct spot investigations of enterprises and check records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers. In October 2000, the Government ratified ILO Convention 182 on elimination of the worst forms of child labor.

The law prohibits forced or bonded labor by children, and there were no reports that it occurred (see Section 6.c.).

e. Acceptable Conditions of Work.—The law sets and the authorities establish minimum wages for specified categories of workers. Only two categories of workers have a formally regulated minimum wage—household domestics and shop assistants (entry level commercial workers). Household domestics are entitled to a minimum wage of \$0.75 (BDS\$1.50) per hour, although in actual labor market conditions, the prevailing wage is triple that amount. There are two age-related minimum wage categories for shop assistants. The adult minimum wage for shop assistants is \$2.13 (BDS\$4.25) per hour and the juvenile minimum wage for shop assistants is \$1.62 (BDS\$3.25) per hour. The minimum wage for shop assistants is marginally sufficient to provide a decent standard of living for a worker and family; most employees earn more. Some persons also receive remittances from relatives abroad or operate cottage industries to supplement their income.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess. The Government accepts ILO conventions, standards, and other sectoral conventions regarding maximum hours of work. However, there is no general legislation that covers all occupations. Employers must provide a minimum of 3 weeks annual leave. Unemployment benefits and national insurance (social security) cover all workers. A comprehensive, government-sponsored health program offers subsidized treatment and medication.

The Factories Act of 1983 sets the officially recognized occupational safety and health standards. The Labor Department enforces health and safety standards and follows up to ensure that management corrects problems cited. The Factories Act also requires that in certain sectors firms employing more than 50 workers create a safety committee. This committee can challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identify safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. The Barbados Workers Union accused government-operated corporations in particular of doing a “poor job” in health and safety. The Government has pledged to undertake inspections of government-operated corporations and manufacturing plants, and the Labor Department’s Inspections Unit conducted several routine annual inspections of such corporations. Workers have a limited right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

f. Trafficking in Persons.—There are no laws specifically addressing trafficking in persons. There were no reports that persons were trafficked to, from, or within the country.

BELIZE

Belize is a parliamentary democracy with a constitution enacted in 1981 upon independence from the United Kingdom. The Prime Minister, a cabinet of ministers, and a legislative assembly govern the country. The Governor General represents Queen Elizabeth II in the largely ceremonial role of head of state. Prime Minister Said Musa’s People’s United Party (PUP) holds 26 of the 29 seats in the House of Representatives following generally free and fair elections in 1998. The Government generally respects the constitutional provisions for an independent judiciary; however, at times the judiciary is subject to political influence.

The Police Department has primary responsibility for law enforcement and maintenance of order. The Belize Defense Force (BDF) is responsible for external security but, when deemed appropriate by civilian authorities, may be tasked to assist the police department. Both the police and the BDF report to the Minister of National Security and are responsible to and controlled by civilian authorities. There were reports of abuse by the police.

The country’s population is approximately 250,000. The economy is primarily agricultural, although tourism has become the principal source of foreign exchange earnings. The agricultural sector is heavily dependent upon preferential access to export markets for sugar and for bananas. The Government favors free enterprise and generally encourages investment, although domestic investors are given preferential treatment over foreign investors in a number of key economic sectors. In 2000 gross domestic product grew at an annual rate of 8.2 percent in real terms. Annual per capita income was \$2,913.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Principal human rights abuses include occa-

sional brutality and use of excessive force by the police when making arrests, poor prison conditions, allegations of arbitrary arrest and detention, lengthy pretrial detention, political influence on the judiciary, and judicial limits on freedom of the press. Violence and discrimination against women, abuse of children, and employer mistreatment of undocumented foreign workers also were problems. There were reports of trafficking in persons.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no political killings by the security forces.

On November 22, soldiers from the BDF shot and killed three Guatemalans in the “adjacency zone” along the border with Guatemala. According to the Government, a joint BDF-Police Department patrol arrived on land disputed between a Guatemalan farmer and a Belizean farmer. The patrol opened fire when the Guatemalan farmer approached with a machete and did not stop when ordered; 61-year-old Jesus Ramirez Solano and his two sons, Jesus Ramirez Icho and Virgilio Ramirez Icho, were killed. Both Governments asked the Organization of American States (OAS) to investigate the killings. After an investigation, on December 18, the OAS facilitators to the Border Talks between the two Governments issued formal recommendations that the Belize Government pay compensation to the victims’ family and suspend all BDF and police personnel involved in the killings, pending a judicial investigation to determine culpability for the deaths. At year’s end, the Government reported that it was taking action in response to the OAS recommendations.

In February 2000, an off-duty police officer armed with a machete chased Kelvin “Brambles” Barrow into the sea, where Barrow died. In 2000 the Ombudsman presented a report to the National Assembly indicating that there was no conclusive evidence that the officer or another officer who was present at the time were responsible for Barrow’s death. The Department of the Public Prosecutor (DPP) determined after investigation that there was no evidence to support criminal charges against either officer. However, the DPP referred the case to a coroner’s inquest, which had not reached a conclusion by year’s end. Barrow’s family continued to pursue a civil suit that they filed against the officers alleged to be involved in the death.

During a March 2000 riot in Hattieville prison, a guard shot and killed an inmate. The Ombudsman’s investigation revealed that the officer was delinquent. However, the DPP’s criminal investigation was unable to attach blame to any officer, and the investigation was closed. At year’s end, a committee appointed by the National Assembly reached the same conclusion. However, the DPP sent the case for a coroner’s inquest, the results of which were unavailable at year’s end.

In 1999 Daniel Tillett died while in police custody, after being arrested for fighting in public. In February 2000, the Director of Public Prosecutions issued instructions to the Police Commission to proceed to indictment of the officer-in-charge, Jesus Cantun. However, on March 13, the Supreme Court dismissed the case against Cantun, ruling that the DPP’s office, due to uncooperative witnesses, was unable to present a case.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture or other inhuman punishment; however, there were occasional confirmed reports that the police used excessive force. Some of the most common complaints received by the office of the Ombudsman involve alleged misconduct and abuse by police and Department of Corrections personnel. However, the Ombudsman reported that the number of such reports are decreasing. From April 2000 through March 31, the Ombudsman received 86 complaints of police misconduct or abuse; the office received complaints at a decreased rate for the rest of the year. Additionally, the Ombudsman stated that in approximately 60 percent of these cases, police are found to have acted appropriately.

The Police Department’s internal affairs and discipline (IAD) section, the Director of Public Prosecutions, the Ombudsman’s office, and on occasion, special independent commissions appointed by the Prime Minister, investigate allegations of abuse by officials. During the year, the IAD received 297 complaints against police officers; of these, 17 involved alleged use of excessive force by police.

On July 30, protesters illegally blocked the country’s major north-south highway. In response, the police and members of the BDF attempted to clear the roadway. After hours of negotiation, police and BDF personnel used tear gas in an attempt to clear the bridge, and protesters assaulted security personnel with rocks and bottles. Several security personnel were injured, and others responded by firing their weapons in the direction of the protesters, wounding two civilians. The Government

immediately suspended a BDF soldier suspected of discharging his weapon and the next day appointed a commission of inquiry to investigate the events. At year's end, the commission continued to conduct hearings on the matter.

On August 27, 2000, two national team soccer players claimed that police beat them while they were handcuffed in Orange Walk Town. As a result of an IAD investigation, the authorities brought charges against constables Roger Briceno, Mateo Carrillo, and A. Coc for the crime of "wounding," which carries a 2-year prison sentence. While no action was taken against the chief inspector for the district, James Magdaleno, the authorities discharged assistant inspector Eli Salazar from the force, following an investigation of alleged torture of another victim.

In 1999 two Guatemalan men, Hector Balcarcel and Ricardo Guzman, were detained at the Guatemala-Belize border. They were taken into police custody, allegedly detained for 5 days, and Balcarcel allegedly was tortured. Balcarcel's report to the Human Rights Commission and the Guatemalan Embassy claimed that he was stripped, handcuffed, burned with a lighter and habanero peppers on his genitals, beaten with a stick, and forced to drink his own urine. After an internal investigation, the police determined that these allegations were false; however, a subsequent review of this investigation by the IAD revealed the allegations to be true. As a result, the authorities discharged assistant inspectors Eli Salazar and Cardinal Smith from the police force. While no report was made public, the IAD forwarded its conclusions to the Office of the Prime Minister. Subsequently, Smith successfully appealed to the Supreme Court for reinstatement, because had not been told the grounds for his dismissal; he later was reassigned to the police force.

Prison conditions are poor. Conditions at the Hattieville Department of Corrections—the country's only prison—have deteriorated continually since it opened in 1993. Although designed to house 500 inmates, it housed 873 male inmates and 30 female inmates, resulting in significant overcrowding. Pretrial detainees are housed in overcrowded cells separate from convicted criminals. At year's end, 131 detainees shared 13 15- by 20-foot cells, equipped with beds for less than half that number. The majority of prison accommodations do not have showers or toilets. Instead, inmates are provided with 5-gallon buckets. The prison psychiatrist provides mental health services for inmates. There is no separate facility for inmates with mental illnesses. First-time offenders are housed in the same building as those who commit capital crimes. Although the Assembly passed legislation that would reduce the number of first-time offenders sent to prison, the Government had only limited funding to support the proposed changes, such as developing community service projects to employ first-time offenders.

Noncitizens constitute approximately 15 to 20 percent of the prison population. There are rare reports of human rights abuses in the form of physical brutality by prison wardens. Prisoners enforce their own code of conduct and have attacked prisoners convicted of particularly serious crimes, such as child molestation. Incidents of gang- and drug-related violence in the prison have decreased. Frequent prison breaks, confiscation of weapons, and reports of beatings have occurred throughout the prison's history. During the year, prison authorities confiscated a large number of deadly weapons, including 23 machetes and 4 makeshift guns. The authorities reported that there were 14 prison escapes during the year, the lowest number in over 50 years; the authorities had captured all but 3 escapees by year's end.

In March 2000, a visiting judge sentenced two inmates at the Hattieville prison to be flogged with a tamarind whip as punishment for assaulting and nearly killing another inmate. This punishment was given official support and approval from the Minister of Prisons and the prison governor, who said that the punishment was necessary, but that floggings would not be carried out in the future. However, later in 2000 and again in August, inmates were flogged in accordance with prison rules for stabbing a fellow inmate in the neck and for escape.

The prison includes a separate facility for women, located about 200 yards outside the main compound. Conditions in the women's facility are significantly better than those in the much larger men's compound. The 30 women held there occupied 17 cells; each inmate has her own bed. The facility is clean, and inmates have access to limited educational classes and vocational classes in cosmetology.

The Government took steps to curb recidivism and focus on rehabilitation. The Youth Enhancement Agency (YEA) houses over 60 youths between the ages of 13 and 25, who participate in rehabilitation and job training programs. Increasingly, youthful offenders are transferred from the main prison to the YEA facilities. Prison authorities provided training for inmates in basic skilled trades such as carpentry and construction. During the year, the prison joined with the Fisheries Department to teach aquaculture to inmates. In addition to providing food and income for the prison, prison officials hope to train inmates for eventual work. A job-training pro-

gram at a citrus farm employs 44 inmates. There is a time-off program for good behavior.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest or detention, and the Government generally observes these provisions; however, there were occasional accusations of arbitrary arrest and detention.

The law requires the police to inform a detainee of the cause of detention within 48 hours of arrest and to bring the person before a court to be charged formally within 48 hours; a constitutional change that took effect during the year reduced the time from 72 hours. In practice the authorities normally inform detainees immediately of the charges against them. In the past, there were persistent allegations that security forces held detainees for 72 hours and released them but upon release, rearrested them; however, there were no such allegations during the year. Police are required to follow “The Judges’ Rules,” a code of conduct governing police interaction with arrested persons. Courts throw out cases in which police have violated these rules. Bail is available for all cases except murder and is granted in all but the most serious cases. In cases involving narcotics, the police cannot grant bail, but a magistrate’s court may do so after a full hearing. Detainees sometimes cannot afford bail, and backlogs in the docket often cause considerable delays and postponement of hearings, resulting in an overcrowded prison, and at times prolonged pretrial detention (see Sections 1.c. and 1.e.).

The Constitution forbids exile. However, in September the authorities arrested four striking banana workers in the southern part of the country and deported them. The four had been active in attempts to unionize banana workers at one of the country’s largest banana farms (see Section 6.b.). Although Honduran by birth, two of the four are naturalized citizens of the country, and the other two are legal permanent residents of the country. In spite of the workers’ status, and contrary to the law, Minister of Immigration Maxwell Samuels issued deportation orders. The deportations were criticized widely, and Prime Minister Musa revoked them later the same day. A week later, the Government dispatched a boat to bring the four workers back to the country.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice; however, at times the judiciary is subject to political influence. The appearance of judicial independence from the executive branch is compromised because some foreign judges and the Director of Public Prosecutions must negotiate renewal of their contracts with the Government and thus may be vulnerable to political interference. Of the four justices sitting on the Supreme Court, only one is a citizen.

The judiciary consists of the *alcalde* courts (with jurisdiction over small civil claims and minor criminal infractions), the magistrate’s courts, the Supreme Court, the Court of Appeals, and a family court that handles cases of child abuse, domestic violence, and child support. Those convicted by either a magistrate’s court or the Supreme Court may appeal to the Court of Appeals. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom. Trial by jury is mandatory in capital cases.

Persons accused of civil or criminal offenses have constitutional rights to presumption of innocence, protection against self-incrimination, defense by counsel, a public trial, and appeal. Defendants have the right to be present at their trial unless the opposing party fears for his or her safety. In such a case, the court grants interim provisions under which both parties are addressed individually during a 5-day period.

Legal counsel for indigent defendants is provided by the State only for capital crimes. In 1999 the Government appointed an attorney to the Legal Aid Center to improve and strengthen legal aid services to the public. The judicial system is constrained by a severe lack of trained personnel, and police officers often act as prosecutors in the magistrate’s courts.

The family court is at the same level as the magistrate’s courts; however, trials in cases that come before the family court generally are private. The convicted party in family court may appeal to the Supreme Court.

There are lengthy trial backlogs in the judicial system. One factor commonly cited is the low pay offered to judges, resulting in high turnover rates. In addition, many cases are taking years to resolve. The Supreme Court is staffed by four justices; although a full complement is five. On October 2, a fifth judge was added temporarily to the court for its fall term to help it handle a docket of criminal cases. However, the heavy caseload of serious crimes, as well as poor case management, lack of attorney discipline, and unreliable witnesses contribute to a significant backlog of cases.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violators are subject to legal action. However, disputes regarding the Government's exercise of eminent domain rights have arisen in the past and have taken some time to resolve.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and the Press.—The Constitution provides for freedom of speech and of the press, but it also permits the authorities to make "reasonable provisions" in the interests of defense, public safety, public order, public morality, or public health. These provisions include forbidding any citizen to question the validity of the financial disclosure statements submitted by public officials. Anyone who questions these statements orally or in writing outside a rigidly prescribed procedure is subject to a fine of up to \$2,500 (bz\$5,000), or imprisonment of up to 3 years, or both.

A wide range of viewpoints is presented publicly, usually without government interference, in seven privately owned weekly newspapers, three of which are affiliated directly with major political parties. There is no daily press. All newspapers are subject to the constraints of libel laws.

There is a range of privately owned commercial radio stations. In addition to these local stations, there are two British military stations that broadcast news directly from London. Popular radio call-in programs are lively and feature open criticism of and comments on government and political matters.

There are eight privately owned television broadcasting stations, including several cable networks in Belize City and other major towns. The Government's Belize Information Service issues press releases and maintains an Internet Web site. Two independent television stations produce local news and feature programs. The Belize Broadcasting Authority regulates broadcasting and asserts its right to preview certain broadcasts, such as those with political content, and to delete any defamatory or personally libelous material from political broadcasts.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and for freedom of association, and the Government generally respects these rights in practice. Political parties and other groups with political objectives freely hold rallies and mass meetings. The organizers of public meetings must obtain a permit 36 hours in advance of the meetings; such permits are not denied for political reasons and are granted routinely in practice. In July police used tear gas to disperse protesters who were blocking a roadway; two civilians and several security personnel were injured (see Section 1.c.).

The Government permits citizens to form and join associations of their choosing, both political and nonpolitical.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

The law provides for granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations. The Government's Refugee Department officially closed in 1999. Since then, the UNHCR has relied upon a local nongovernmental organization (NGO) to monitor the status of asylees and to represent its interests. There were an estimated 22 refugees receiving UNHCR assistance and awaiting the opportunity to apply for asylum in the country at year's end. Most are Africans from Nigeria or Sierra Leone.

The previous administration appointed members to an eligibility committee to review applications for asylum. The committee, which included a UNHCR representative, met on a weekly basis. The Government has not established an eligibility committee since the change of administrations in 1998. The Government has not accepted applications, and no mechanism exists to adjudicate asylum requests. There is no legislation that formalizes the asylum process. The Government last honored the principle of first asylum in the case of four persons in 1995.

In the wake of the civil conflicts in Central America in the 1980's, over 40,000 predominantly Hispanic migrants came to the country, many of them entering illegally and living without documentation. In 1999 the Government instituted a 6-week amnesty initiative whereby undocumented migrants were eligible to obtain

legal residency, provided: They had lived in the country continuously for 4 years; married a Belizean citizen or had a stable common-law association; had Belizean children; or, if female, were at least 4 months pregnant. The amnesty was expected to benefit about 5,000 UNHCR-registered asylees, as well as 13,000 others. Officials continued to process amnesty applications during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The country is a democracy governed by a national assembly with executive direction from a cabinet of ministers headed by Prime Minister Said Musa. The law requires national elections every 5 years. The Government changed hands in August 1998 when the PUP won 26 of 29 seats in the House of Representatives in generally free and fair elections.

All elections are held by secret ballot, and suffrage is universal for citizens 18 years of age and older. National political parties include the People's United Party, the United Democratic Party (UDP), and the National Alliance for Belizean Rights. Another political party, calling itself "We the People," was formed during the year. The country's ethnic diversity is reflected in each party's membership.

No laws impede participation of women in politics; however, the percentage of women in government and politics does not correspond to their percentage of the population, due to both tradition and socioeconomic factors. There are two women in the House of Representatives; one is an elected Representative and the other was appointed to serve as Speaker of the House. Three women sit in the nine-member Senate, one of whom served as President of the Senate for part of the year. Additionally, two women are members of the Cabinet, and three are permanent secretaries in ministries. The Chief Elections Officer is also a woman.

There are no laws impeding participation by indigenous persons or minority groups in politics. There are Mestizo, Creole, Maya, and Garifuna representatives in the National Assembly.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Human Rights Commission of Belize (HRCB), an NGO affiliated with regional human rights organizations and partly funded by the UNHCR, operates without government restriction on a wide range of issues, including migrant and agricultural workers' rights and cases of alleged police abuse. The HRCB publishes human rights complaints and urges police and other governmental bodies to act upon them. The HRCB gained prominence through media reports about its workshops and seminars that educate citizens about human rights.

International human rights groups operate freely as well. Government officials generally are cooperative and responsive to their activities.

The Government's Ombudsman reported that his office received fewer complaints of human rights violations during the year than in 2000. The three most common categories of complaints involve police, the Lands Office, and prison personnel, in that order (see Section 1.c.).

The Ombudsman's second annual report highlighted concerns similar to the previous year's report, such as unprofessional police services and lack of response by public officials to citizen's complaints. The report stated that the Ombudsman's office had received 251 formal complaints (regarding all types of perceived abuse by government agencies) from April 2000 through the end of March.

The Ombudsman coordinates his work with the HRCB, pursuant to a memorandum of understanding signed in 2000. As a result, the Ombudsman stated that both entities have shared capabilities and improved their services.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The country is multiracial and multiethnic, and the Government actively promotes tolerance and cross-cultural understanding. Discrimination on ethnic or religious grounds is illegal and rare, although ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. The Government continues to reserve certain professions for citizens, granting permits and licenses to noncitizens only in specific cases. These occupations include fishing, souvenir manufacturing, sightseeing tours, accounting, insurance, real estate, and legal services.

Women.—Violence against women is a problem. Although statistics are incomplete, the Ministry of Human Development, Women, and Civil Society estimated that there were about 1,000 domestic violence cases during the year. On March 8, the Domestic Violence Surveillance Data Report was released; compiled by the Women's Department, police, and other organizations in all six districts of the coun-

try, it showed that domestic violence is widespread. Most of the reported cases were from Belize City. The report recognized that underreporting of cases may occur in other parts of the country where persons are reluctant to discuss or report it. The Police Department has a family violence unit that addresses complaints of spousal abuse. A shelter for battered women offers short-term housing. The Belize Organization for Women and Development, an NGO, advises women on their rights and provides counseling.

Laws prohibit rape and sexual harassment, but few offenders are charged and convicted. The Criminal Code prohibits marital rape.

Adult prostitution is not illegal, although the law prohibits loitering for prostitution, operating a brothel, or for a man to solicit for prostitution. The laws carry penalties of fines up to \$500 (bz\$1,000) or 1 year of imprisonment, and are weakly enforced.

Despite constitutional provisions for equality, women face social and economic prejudice. Although there is no statistical support for the claim, it is believed widely that women find it more difficult than men to obtain business and agricultural financing and other resources. Most employed women are concentrated in female-dominated occupations with traditionally low status and wages. The Women's Bureau in the Ministry of Human Development, Women, and Civil Society is charged with developing programs to improve the status of women. A number of officially registered women's groups work closely with various government ministries in promoting social awareness programs. Women have access to education and are active in all spheres of national life, but relatively few hold top managerial positions. However, women head the Belize Business Bureau, Belize Chamber of Commerce and Industry, Belize Citrus Growers Association, several prominent environmental NGO's, and the Belize Rotary Club. The law mandates equal pay for equal work; however, because women tend to be employed in certain occupations, no reliable evidence exists to support the widely held belief that female workers often earn less than men in similar jobs. There are no legal impediments to women owning or managing land or other real property.

Children.—Education is compulsory for children between the ages of 5 and 15. After children finish their primary education, they may enter a secondary school, the government-run apprenticeship program, or a vocational institution. However, these programs have room for only about one-half of the children finishing primary school; competition for spaces in secondary school is intense. Education is nominally free, but various school, book, and uniform fees place education out of reach for many poor children. There are also many truants and dropouts. According to the Central Statistics Office, in the 1990's, 46 percent of children did not complete primary school, and 10 percent of those children never enrolled in school at all.

The Family Services Division in the Ministry of Human Development, Women, and Civil Society is devoted primarily to children's issues. The division coordinates programs for children who are victims of domestic violence, advocates remedies in specific cases before the family court, conducts public education campaigns, investigates cases of trafficking in children (see Section 6.f.), and works with NGO's and UNICEF to promote children's welfare. The National Committee for Families and Children includes a representative from the Ministry of Human Development, Women, and Civil Society.

Child abuse is not considered to be widespread or a societal problem. In 1998 the National Assembly passed the Families and Children Act, and in 1999 the National Organization for the Prevention of Child Abuse (NOPCA), an NGO, published a handbook for the public that outlines in plain language the provisions of the law. The law allows authorities to remove a child legally from an abusive home environment, removes the limit placed on child support that a parent must pay, and allows men to file for support, as well as women. It requires parents to maintain and support children until they reach the age of 18, compared with the previous law's mandate of support until the age of 16. The law also accepts DNA testing as legal proof of paternity and maternity. It requires that all adoptions be reported to the Human Development Department of the Ministry of Human Development, Women, and Civil Society, and that prospective parents be screened before they may adopt a child. The NOPCA instituted a nationwide telephone help line to encourage discourse and reduce abuse.

Persons with Disabilities.—The law does not provide specifically for accessibility for persons with disabilities or prohibit job discrimination against them. The Government's Disability Services Unit, as well as a number of NGO's, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired, provide assistance to such persons. Children with disabilities have access to government special education facilities, although the requirements to enter such programs are strict.

Indigenous People.—Among the country's indigenous people, the Mopan and Ke'kchi are grouped under the general term Maya, although their leaders say that they should be identified as the Masenal, meaning "common people." The Maya have sought official recognition of their communal claims to land, but the Government has been reluctant to single out one ethnic group for special consideration. The Government has designated 77,000 acres as 9 separate Mayan reserves; however, Mayan leaders claim that the Maya have an ancestral claim to a total of 500,000 acres. The Maya have formed cultural councils and other groups to advance their interests, sometimes with the collaboration of NGO's concerned with environmental and indigenous issues. Several Mayan organizations had filed suit to force the Government to recognize the Maya's ancestral land claims and to prevent further granting of logging concessions on the disputed land. However, at year's end, the suit had been dropped and Mayan leaders had taken no further action.

In October 2000, the Government and the Mayan People of Southern Belize (a loose association of Mayan and nongovernmental groups) signed a collective agreement to address the grievances set forth in a petition by Mayan community leaders in the summer of 1998. However, Mayan leaders reported that by year's end, the agreement had produced no concrete results since its signing.

Section 6. Worker Rights

a. The Right of Association.—By law and in practice, workers generally are free to establish and join trade unions. Eight independent unions, whose members constitute approximately 11 percent of the labor force, represent a cross-section of white-collar, blue-collar, and professional workers, including most civil service employees. However, several of these unions are inactive. The Ministry of Industry, Commerce, Public Services, and Labor recognizes unions after they file with the Registrar's Office. The law empowers members to draft the bylaws and the constitutions of their unions, and they are free to elect officers from among the membership at large. Unions that choose not to hold elections may act as representatives for their membership, but the National Trade Union Congress of Belize (NTUCB) permits only unions that hold free and annual elections of officers to join its ranks. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

The law permits unions to strike and does not require them to give notice before going on strike. In August physicians in the Orange Walk district conducted a go-slow strike to protest working conditions and pay. At year's end, the dispute was submitted to an arbitration panel.

Although no unions are affiliated officially with political parties, several are sympathetic to one or the other of the two main parties (the PUP and the UDP).

Unions freely exercise the right to form federations and confederations and affiliate with international organizations.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining and unions practice it freely throughout the country. The Trade Unions and Employers Organizations Act of 2000 became law in December of that year. Employers and unions set wages in free negotiations, or, more commonly, employers simply establish them. The Labor Commissioner or his representative acts as a mediator in deadlocked collective bargaining negotiations between labor and management, offering nonbinding counsel to both sides. Historically the Commissioner's guidance has been accepted voluntarily. However, should either union or management choose not to accept the Commissioner's decision, both are entitled to a legal hearing of the case, provided that it is linked to some provision of civil or criminal law.

The Constitution prohibits antiunion discrimination both before and after a union is registered. Unions may organize freely, and the Trade Unions and Employers Organizations Act requires employers to recognize unions when a critical level of membership is reached. Some employers have been known to block union organization by terminating the employment of key union sympathizers, usually on grounds purportedly unrelated to union activities. Effective redress is extremely difficult to obtain in such situations. Technically, a worker can file a complaint with the Labor Department, but in practice it is difficult to prove that a termination was due to union activity.

On June 7, six banana workers who had been active in union organizing activities on a southern banana farm were fired and were served with eviction notices from their company-provided housing. The six workers had worked for the company for periods ranging from 4 to 17 years. The six workers sued under the labor law and won an injunction against their removal. However, as the case awaited a full hearing, the Government deported four of the six to Honduras (see Section 1.d.). Later, the four were returned to the country at the Government's expense. Workers con-

tinue to press for recognition of their union. At year's end, all of the banana workers had found work elsewhere, but they continued to press claims in court for compensation based on their wrongful dismissal. In addition, the four deported workers were negotiating compensation from the Government for their illegal deportation, while a court case was pending.

The Labor Code applies in the country's export processing zones (EPZ's). There are no unions in the EPZ's, reflecting the general weakness of organized labor in the country.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and laws forbid forced, compulsory, or bonded labor, including that performed by children, and generally it is not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Act prohibits all employment of children under age 12 and prohibits employment of children between the ages of 12 and 14, before the end of school hours on official school days. However, there is a long tradition of children's employment on family farms and in family-run businesses, which the law allows. The minimum age for employment is 17 years for work near hazardous machinery. Inspectors from the Departments of Labor and Education enforce this regulation.

In November 2000, the NOPCA began a child labor project; it released a report in January stating that child labor exists in many forms in the Corozal district. Children work as shop assistants, gasoline attendants, and cane farmers. Other reported instances of violation of child labor laws are rare; one report that received wide exposure involved the employment of 16- to 18-year-olds in the Commercial Free Zone, an EPZ near the Mexican border, where the teenagers reportedly worked during school hours and for longer hours than allowed by law.

Laws prohibit forced and bonded labor by children, and in general the Government effectively enforces this prohibition.

e. Acceptable Conditions of Work.—The minimum wage is \$1.12 (bz\$2.25), except in export industries, where it is \$1.00 (bz\$2.00) per hour. For domestic workers in private households and shop assistants in stores where liquor is not consumed, the rate is \$0.87 (bz\$1.75) per hour. The minimum wage law does not cover workers paid on a piecework basis. The Ministry of Industry, Commerce, Public Services, and Labor is charged with enforcing the legal minimum wage, which generally is respected in practice. The minimum wage as sole source of income does not provide a decent standard of living for a worker and family. Most salaried workers receive more than the minimum wage.

The law sets the normal workweek at no more than 6 days or 45 hours. It requires payment for overtime work, 13 public holidays, an annual vacation of 2 weeks, and sick leave for up to 16 days. An employee is eligible for severance pay provided that he was employed continuously for at least 5 years.

The exploitation of undocumented Guatemalan, Honduran, and Salvadoran workers, particularly young service workers and possibly some agricultural workers, continued to be a problem. Banana farm owners slowly continue to move the housing they provide for their workers away from the fields where poisonous pesticides are sprayed. Health clinics in the region report that the most frequently treated ailments are pesticide-related skin conditions. Company-provided housing often lacks electricity and water. The Government, the HRCB, and other concerned citizens focus on this problem; however, since turnover rates of banana workers are so high, organizing this segment of the work force is difficult.

On March 14, an NGO released a highly critical report that documented the banana growers' mistreatment of their largely migrant workforce. The report was prepared by the Banana Task Force of the NTUCB and the nongovernmental Society for the Promotion of Education and Research. On March 22, industry representatives held a forum in which they criticized the report as inaccurate. The Ombudsman said he would conduct his own investigation into the report's allegations, and the Labor Ministry promised more assistance to affected workers. However, at year's end, the Government had provided no additional assistance to banana workers.

A patchwork of health and safety regulations covers numerous industries, and the Labor Department in the Ministry of Industry, Commerce, Public Services, and Labor enforces these regulations to varying degrees. Enforcement is not universal, and the ministries commit their limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints have been registered. Workers have the legal right to remove themselves from a dangerous workplace situation without jeopardy to continued employment.

f. Trafficking in Persons.—Although the law does not specifically prohibit trafficking in persons, it does proscribe procurement for the purpose of prostitution. There were unconfirmed reports that women had been enticed to come to the coun-

try with promises of work as domestics or waitresses, but then were forced to work as prostitutes.

The Ministry of Human Development, Women, and Civil Society, the police department, and—in cases involving migrant children—the Ministry of Immigration investigate and attempt to remedy cases that involve trafficking in children. Unlike the previous year, there were no reports of trafficking in children for the purpose of prostitution.

BOLIVIA

A constitutional, multiparty democracy with an elected president and bicameral legislature, Bolivia has separate executive, legislative, and judicial branches of government, with an attorney general independent of all three. President Jorge Quiroga of the Nationalist Democratic Action Party took office in August after President Hugo Banzer Suarez resigned due to serious illness. The governing coalition controls both houses of the legislature, holding 19 of 27 seats in the Senate and 66 of 130 seats in the Chamber of Deputies. Coalition members hold the top leadership positions in both chambers. The executive and legislative branches suffer from corruption and inefficiency to some extent. The judiciary, while generally independent, also is corrupt and inefficient.

The National Police have primary responsibility for internal security, but military forces can be called upon for help in critical situations, and this occurred during the year. The Judicial Technical Police (PTJ) conduct investigations for common crimes (cases that do not involve narcotics). The police provide security for coca eradication work crews in the Chapare region, a tropical area where illegal coca is grown. The Special Counternarcotics Force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. Civilian authorities generally maintain effective control over the security forces; however, some members of these forces committed human rights abuses.

The country has a population of approximately 8.15 million. The country has extensive poverty, and many citizens lack access to such basic services as potable water, sewage, electricity, and primary health care. Per capita gross domestic product (GDP) declined to approximately \$965. According to the World Bank, between 1993 and 1999, approximately 67 percent of the population lived below the poverty line. The country is rich in minerals and hydrocarbons, and extensive development investments in natural gas are expected to form a basis for strong GDP growth in the future. However, most workers engage in traditional agriculture, and many citizens remain barely linked to the cash economy.

The Government generally respected the human rights of its citizens; however, problems remain in certain areas. Legal and institutional deficiencies prevented the full protection of citizens' rights. Security forces killed 11 protesters during violent demonstrations during the year. There were a number of allegations of torture by the police and security forces, although none were confirmed independently. There were credible reports of abuses by police, including use of excessive force, petty theft, extortion, and improper arrests. Investigations of alleged official abuses were slow. Prison conditions are harsh, and violence in prisons is a problem. At times police arbitrarily arrested and detained persons. Denial of justice through prolonged detention due to antiquated procedures and inefficiency and corruption in the judicial system remained a serious problem, although this began to change with the full implementation in May of the new Code of Criminal Procedures (CCP). In March the Government also enacted a new Public Ministry Law to adapt the prosecutorial function of the judicial system to the requirements of the CCP. There were reports that the Government infringed on citizens' property rights and attempted to intimidate the media. Security forces injured hundreds of protesters during the year. Other problems included domestic violence and discrimination against women, abuse of children, discrimination against and abuse of indigenous people, discrimination against Afro-Bolivians, child labor, inhuman working conditions in the mining industry, and trafficking in persons.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings committed by government agents; however, 1 person died while in police custody, and security forces killed 11 protesters during violent demonstrations during the year.

On February 17, Richard Cordoba died as a result of asphyxiation through hanging while in police custody in Cochabamba. The PTJ investigated, and the authorities charged at least five police officers for their alleged involvement in the death. Legal proceedings against the officers were pending at year's end.

On April 24, two civilians were killed following confrontations between security forces and striking transport workers. Daniel Vela Cuba, a driver, died after allegedly being hit in the head by a tear gas canister fired by police during a protest by striking transport workers in El Alto (see Sections 2.b. and 6.a.). According to an autopsy, he died of head trauma, but the investigation has not determined who was responsible. In La Paz, 89-year-old Antonia Mamani de Apaza died, allegedly due to inhalation of tear gas fired by police during a transport workers protest (see Section 2.b.). Investigations into both deaths were pending at year's end.

On June 27, Severo Manani Poma was killed by gunfire during a clash between security forces and demonstrators near the town of Quella Quella. Also on June 27, protester Isabel Quispe Machaca was injured in clashes with security forces near the town of Patamanta; she died on June 29. Investigations were pending at year's end. Initial accounts of the incident indicate that security forces fired the shots that killed Manani Poma and Quispe Machaca.

On September 27, a group of approximately 200 protesters accompanied by journalists attempted to occupy a camp for coca eradication work crews near Loma Alta in the Chapare. After protesters refused orders to halt their advance, security forces used tear gas to disperse the crowd. Security forces then fired shots from the camp striking Ramon Perez, who later died while being evacuated to Chimore. An investigation was pending at year's end.

On August 23, the Government signed an agreement with the Sole Confederation of Bolivian Campesino Workers (CSUTCB) that committed the Government to investigate and identify those responsible for civilian deaths and injuries in clashes with security forces in April and September 2000 and in June and July 2001. The August 23 agreement augmented compensation for civilian deaths to \$7,700 (50,000 bolivianos) to the family of each civilian killed and also included compensation for those injured in the clashes. This agreement supplemented an October 2000 agreement between the Government and the CSUTCB in which the Government agreed to pay all medical costs, as well as compensation up to \$1,575 (10,000 bolivianos) to those injured and to the families of civilians killed in the violent disturbances in April, September, and October 2000. At year's end, civilians injured and the families of civilians killed had received at least partial compensation.

On October 16, Nilda Escobar Aguilar was killed near Los Amigos, Central Isarzama in the Chapare, when she apparently was struck in the head by accident with a tear gas canister during a clash between demonstrators and security forces.

On November 15, 3 protesters (Maximo Rojas, Abel Orozco, and Claudio Quiroga Herrera) were killed and more than 13 were injured (3 seriously) in violent clashes with security forces near Senda Six in the Chapare. According to the Government, the incident began when an army vehicle stopped due to a blockade on the main road. After the security forces dismounted they allegedly were attacked by a sniper (which had happened several times in the previous few weeks). A crowd of demonstrators formed around the security forces. Because of adverse wind conditions, the security forces fired warning shots into the air instead of tear gas. The warning shots apparently failed to dissuade the demonstrators, who moved closer to the troops and, in one case, attempted to wrestle a rifle from a soldier. The security forces, following training doctrine, then fired at the protesters' feet. The Government believes that several bullets may have ricocheted and struck the demonstrators, causing the deaths and injuries. Human rights organizations disputed the Government's version of events, and investigations continued at year's end.

On November 20, security forces and demonstrators trying to establish roadblocks engaged in a major confrontation in the town of Sinahota in the Chapare. Soldiers reportedly first fired in the air as demonstrators approached throwing stones and then surrounding the military contingent. A member of the crowd allegedly tried to take a soldier's weapon. Some soldiers then apparently fired at the demonstrators, hitting one demonstrator in the leg and fatally wounding a second, Andres Aguilar Condori.

On December 6, a group of campesinos belonging to the Chimore Coca Growers Federation attempted to block the main road in Chimore (the Cochabamba/Santa Cruz highway). Members of the army's Chapare Expeditionary Force attempted to clear the road. As the crowd grew larger, additional security forces were called in, and police supporting the operation used tear gas in an effort to disperse the crowd. In an ensuing confrontation, a soldier shot two civilians, hitting one in the ankle and badly wounding the other, Casimiro Huanca, the main cocalero leader of the Chimore Federation. Illegal coca growers alleged that Huanca then was shot again

by security forces while lying wounded. Huanca died shortly thereafter at the Chimore hospital. The Government began civilian and military investigations of the incident.

On December 11, security forces and squatters clashed near Yapacani. Dozens of police and squatters reportedly were injured, and one civilian, Jose Luis Velazquez, was killed by a gunshot. Local police told the press that they were attacked while attempting to lift a blockade. A relative said Velazquez was not involved in the protests. On November 9, seven persons were killed in violent clashes between landless campesinos (peasants) and small landowners in Pananti near the southern Bolivian city of Yacuiba, in the Department of Tarija (bordering on Argentina). Another 20 persons were injured (mostly with bullet wounds); the authorities arrested 9 campesinos and 5 landowners. Police were searching for at least three others at year's end.

On December 21, a car bomb exploded about 10 yards in front of the Bolivian National Police headquarters building in Santa Cruz, the country's second largest city. The bomb killed one person, and flying glass wounded many others. Following the attack, there were claims of responsibility from callers claiming to be Shining Path terrorists and from a previously unknown indigenous organization calling itself The Group for Better Days for Bolivia. The police suspect the involvement of citizens, as well as Peruvians who have received training from Shining Path terrorists. The BNP arrested a number of Bolivian and Peruvian suspects.

Politically motivated violence between rival factions at the January convention of the CSUTCB in Oruro led to the death of Francisco Miranda and serious injuries to several others.

There were several deaths due to violence in the prisons during the year (see Section 1.c.).

In September and October 2000, violent demonstrations by illegal coca growers in the Chapare, urban and rural teachers' unions, antiglobalization protesters, and indigenous farmers in the highlands resulted in the deaths of up to 10 civilians; approximately 180 civilians were injured. At least three of these deaths were not plausibly attributable to the security forces. In addition, four security officials and the spouse of one security official disappeared in the Chapare during the disturbances and later were found tortured and killed. Another security official is missing and presumed dead. The Government believes that illegal coca growers led by Evo Morales were responsible for the deaths of the security officials in the Chapare, but investigations continued at year's end.

In April 2000, then-President Banzer declared a state of siege when violent demonstrations and road blockages in Cochabamba, combined with unrelated protests across the country, brought commerce to a virtual halt. In the days that followed the declaration, there were violent clashes between security forces and demonstrators that resulted in deaths and injuries. It appears likely that security forces killed at least three of the four civilians who died during the demonstrations. In addition, an army officer was killed, and over 50 persons were injured before the state of siege ended on April 20, 2000. In August 2000, the Constitutional Tribunal affirmed the constitutionality of the state of siege. However, human rights organizations criticized the state of siege as well as the subsequent violence and detentions that occurred.

The military justice case against alleged sharpshooter Captain Robinson Iriarte Lafuente, who was videotaped by television news organizations in civilian clothes kneeling alongside troops and firing a rifle during the April 2000 disturbances in Cochabamba, was pending at year's end. In April 2000, Captain Iriarte testified before the congressional Human Rights Committee that he had fired shots in three different locations at walls and buildings to intimidate civilians who had been rioting nearby, but claimed that each time he received permission from a superior officer at the scene. Armed Forces Commander Admiral Jorge Zabala told the Congressional Human Rights Committee that, during the state of siege, soldiers only were authorized to fire live ammunition by order of their commander; the 7th Division Commander, Brigadier General Jose Antonio Gil, testified that he gave no such order.

In October 2000, the civilian justice system ordered 17 military officers and soldiers to testify or face arrest on charges in the death of a protester on April 8, 2000, in Cochabamba. The military officials did not testify and sought to have the case transferred to the military justice system at year's end.

The case of Miguel Angel Rivero Siles, who died in 1999 as a result of severe burns suffered days prior in a solitary confinement cell at San Sebastian prison in Cochabamba, continued to move slowly through the judicial system. Charges against police at the prison were pending at year's end.

In May 1999, police arrested Peruvian businessman Carlos Freddy Cano Lopez after he refused to pay a disputed taxi fare. Cano suffered third degree burns over 50 percent of his body when his cell caught fire under suspicious circumstances. The authorities transferred Cano to a hospital in Lima, Peru, where he died in June 1999. The authorities suspended the two policemen involved; one of the policemen was released on March 1, and the other remained in jail at year's end. Cases against both individuals remained pending at year's end.

In January 2000, the Government completed investigations and issued reports concerning the five unresolved cases of civilian deaths during the fatal confrontations between security forces and illegal coca growers in the Chapare in the spring of 1998. The reports were forwarded to the Cochabamba district attorney, who recommended that all five cases (plus two others) be closed. However, a judge in Villa Tunari decided to continue proceedings on three cases and, following his decision, allegedly received threats, which later apparently ceased. The three cases subsequently were transferred to a superior court in Cochabamba in late 2000. In March the three cases were transferred back to the judge in Villa Tunari, but in May the Cochabamba District Court transferred the three cases to the military justice system, where further proceedings were pending at year's end.

In late May, the Potosi District Court sentenced mining sector labor leaders Walter Romero and Mario Mansilla to 15 years in jail for their involvement in the 1996 death of National Police Colonel Eddy Rivas. The case addressed their involvement in organizing the violent protests during which Rivas and nine civilians died, with no apparent evidence linking them directly to the death of Rivas. A lower court judge already had sentenced the two to 2 years in jail. Human rights organizations and mining unions protested the decision and called for then-President Gonzalo Sanchez de Lozada, then-Minister of Government Franklin Anaya, then-Minister of Defense Alfonso Kreidler, then-Commanding General of the National Police Willy Arriaza and others to be tried for alleged responsibility for the civilian deaths. The cases against the officers accused of being responsible for the violence remained pending in the military justice system at year's end. According to the Government, in 2000 the five officers were reassigned to nonoperational units pending the outcome of their legal cases.

The Government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths results in a perception of impunity. However, in 2000 the FELCN created an internal affairs unit (see Section 1.c.).

Unlike the previous year, there were no reported killings of government security forces by nongovernmental actors, although there were reports of injuries (see Section 1.c.).

There were several reported cases of alleged criminals lynched or burned by civilians, sometimes resulting in death, for their alleged crimes.

b. Disappearance.—There were no reports of politically motivated disappearances. The case of Jose Carlos Trujillo Oroza continued to draw attention as the most prominent of the cases of those who disappeared during the 1971–78 de facto regime of President Hugo Banzer Suarez. Trujillo's mother presented the case to the Inter-American Commission on Human Rights (IACHR) in June 1999. Security forces had detained Trujillo, a 21-year-old university student, in December 1971, and he never was seen again after February 2, 1972. Trujillo's mother first presented his case to the IACHR in September 1992. In 1996 President Sanchez de Lozada's Government accepted responsibility for Trujillo's arrest and disappearance and named those responsible but did not hold them accountable. In January 2000, the Banzer Government accepted responsibility for Trujillo's arrest and disappearance before the Inter-American Court of Human Rights. The Government offered to begin negotiations with Trujillo's mother, who is seeking the return of her son's remains and punishment for those responsible, with the goal of an amicable settlement. In August the Santa Cruz Superior Court ruled against the family's petition for the Government to pursue murder charges. The family appealed this decision to the Constitutional Tribunal, which ruled in November that the murder case should be reopened.

On December 26, Argentine Judge Rodolfo Canicoba Corral filed an international arrest warrant for detention pursuant to the extradition of former President Banzer to Argentina to face legal proceedings for his alleged role in the mid-1970's "Plan Condor." The alleged crimes are "forced and illegal denial of liberty" (disappearances/kidnaping) and "illicit association." The charges allege that from 1976 to 1981 Banzer belonged to a "criminal organization" involved in the "forced disappearance" of persons, activities that were perpetrated entirely or partially in Argentina. The organization allegedly was comprised of members of security forces in Argentina, Paraguay, Uruguay, Chile, and Bolivia. The request was received by the Ministry of Foreign Affairs and Worship on December 28.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture, and the Government generally respects this provision; however, there were a number of allegations of torture, beatings, and abuse by members of the security forces.

Security forces clashed with union and other demonstrators on many occasions during the year, resulting in some deaths and hundreds of injuries (see Sections 1.a. and 2.b.). On June 8, several police and protesting miners were injured during clashes. On July 15, eight protesters were injured during clashes between violent demonstrators and government security forces. At least some of the injuries were attributed to rubber bullets used by the security forces. On September 25, a boy was wounded as police dispersed a crowd harassing workers at an eradication camp in the Chapare. On October 4, there were unconfirmed reports that eradication forces in the Chapare had shot and wounded two coca growers. Investigations into these incidents were pending at year's end.

During the April 2000 state of siege (see Section 1.a.), there were allegations that the military took residents of Achacachi into custody in the middle of the night and beat them in an attempt to learn the names of those responsible for the death of an army captain. The army captain was an officer in a unit believed by demonstrators to be responsible for the earlier death of a civilian in Achacachi. A mob beat the captain, and after he was taken to a hospital, dragged him from the hospital and beat him to death. There also were allegations that arrestees from Patacamaya during the state of siege were beaten by the military prior to being transferred to the custody of the PTJ. Investigations into these events continued at year's end.

There were allegations that security officials beat protesters whom they detained in the Chapare during the September-October 2000 disturbances, as well as allegations that they beat civilians to try to learn the location of missing security officials and the names of those responsible for their deaths. At year's end, the Public Ministry still was investigating the allegations to determine the security units and commanders involved.

In March the Bolivian Permanent Assembly for Human Rights (APDH) and other nongovernmental organizations (NGO's) submitted a suit against the Government to the IACHR alleging that the Government tortured and persecuted persons accused of being members of the Tupaj Katari Guerrilla Army (EGTK) terrorist organization between 1998 and 1993. The Government denied the accusations.

There also were credible allegations that military officers and sergeants beat and otherwise mistreated military conscripts. In 2000 a military court found a sergeant accused of allegedly beating conscript Roger Candia Vallejos in September and November 1999 not guilty for lack of evidence. Candia was discharged honorably, but his unit was disciplined.

Several police officers were fired and charged for off-duty crimes and a number were dismissed for corruption. However, in general the police were not disposed to investigate their own colleagues, and prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty. In 2000 the FELCN created an internal affairs unit that reports directly to the FELCN commander; the National Police have not yet created such a unit, although a November 2000 presidential decree authorizes it to do so. The FELCN internal affairs unit investigates allegations of malfeasance and wrongdoing, as well as alleged human rights abuses.

Approximately 5,000 FELCN members, PTJ members, lawyers, law students, prosecutors, judges, and NGO representatives have received training on the new Code of Criminal Procedures over the last 2 years. During the year, 410 policemen and 115 military officers received crowd control training from an international donor. The training emphasized respect for human rights and internationally accepted principles of crowd control. FELCN officers also have received training over the last 2 years on human rights issues incorporated in general counternarcotics training. In July 2000, foreign consultants conducted a 1-week human rights course for 33 FELCN investigators. The basic FELCN and UMOPAR training includes a human rights module.

In 1999 the military signed a cooperation agreement with the Human Rights Ombudsman's office and concluded an agreement for coordination of human rights training with the Ministry of Justice and Human Rights; such training took place during the year.

Indigenous communities in areas with little or no central government presence impose punishment that reliably is reported to include the death penalty on members who violate traditional laws or rules, although the Constitution prohibits both the death penalty and extrajudicial punishments.

There was violence during the year against Government security forces and coca eradication crews. On April 20, a group of soldiers was ambushed in the Chapare; two soldiers were shot and wounded. The soldiers were not part of the Joint Eradi-

cation Task Force (JTF). On May 8, a policeman was ambushed and received serious bullet wounds. On May 10, a booby-trapped explosive device injured two policemen. On August 2, a policeman was wounded in an ambush in the Chapare. On September 1, workers associated with the JTF were ambushed in the Chapare injured by gunfire. On November 20, two police officers were shot near Eterazama on the main highway in the Chapare, apparently by illegal coca growers. On December 20, unknown assailants ambushed eradication forces near the base camp of San Jose, near Eterazama in the Chapare, and shot and wounded three soldiers. On October 7, a 9-year-old girl was injured severely by a booby trap apparently intended for security forces; a man was arrested and charged with involvement in the incident.

Prison conditions are harsh. Prisons are overcrowded and in poor condition. With the exception of the maximum-security prison of Chonchocoro in El Alto, government authorities effectively only have control of the outer security perimeter of each prison. Inside prison walls, prisoners usually have free reign. Violence between prisoners and in some cases, the involvement of prison officials in violence against prisoners, are problems. Corruption is a problem among low-ranking and poorly paid guards and prison wardens. Detention centers, which are supposed to house the accused prior to the completion of their trials and sentencing (if convicted), also are overcrowded. Convicted criminals often are housed in detention centers on judge's orders because of overcrowding in the larger prisons.

According to the Director General of the Penal System in the Ministry of Government, as of June there were 7,165 prisoners in facilities designed to hold 4,700 prisoners. The majority of all prisoners were held for narcotics crimes. The Pardon and Extraordinary Freedom Jubilee 2000 Law, an amended version of which took effect in December 2000, has begun to reduce the overcrowding. The law pardons prisoners under the age of 21 or over the age of 60; reduces felony sentences by one-third for all prisoners sentenced prior to August 2000; and pardons prisoners who are parents of minor children and have completed at least 50 percent of their sentences. (Reductions in felony sentences are not extended to prisoners convicted of murder, parricide, or treason, nor to most prisoners convicted of terrorism, rape, or narcotics trafficking. In addition, prisoners who were convicted of murder, rape, kidnapping, terrorism, or narcotics crimes and sentenced to more than 10 years in jail are not eligible for the benefits given to prisoners under age 21 or over age 60, or to parents of minor children.) The one-third reduction in sentences meant that many prisoners had served over 50 percent of their sentences and thus were eligible for earlier parole. The law was expected to lead to the release of between 1,500 and 2,000 prisoners by year's end; however, there was no information to confirm the number of actual releases.

A prisoner's wealth can determine cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Cell prices range from \$20 to \$5,000 (130 to 32,500 bolivianos), paid to prior occupants or to prisoners who control cell blocks. For example, in the poorest parts of San Pedro prison in La Paz, inmates occupy tiny cells (3 by 4 by 6 feet) with no ventilation, lighting, or beds. Crowding in some "low-rent" sections obliges inmates to sleep sitting up. Although only children up to 6 years old are supposed to live with an incarcerated parent, children as old as age 12 live with their fathers in San Pedro prison. According to the Director General, as of April there were 1,624 children living with a parent in prison. If such children have nowhere else to go, the Government considers it more humane to support them in prison than to leave them homeless. According to a 1995 study, the standard prison diet can cause anemia; the diet has not been improved since then. Prisoners who can afford to supplement the standard prison diet by buying food do so. The Government budgets only \$0.32 (2 bolivianos) per prisoner per day for food. There is no adequate health care within the prisons, and it is very difficult for prisoners to get permission for outside medical treatment. However, affluent prisoners can obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Drugs and alcohol are readily available for those inmates who can pay.

On March 8, convict Jose Valentin Mujica was found hanged at the maximum security San Pedro de Chonchocoro prison located near La Paz. On June 4, three prisoners were killed and three were injured at Palmasola prison in Santa Cruz as a result of violence between inmates. In June 2000, Brazilian prisoner Mustafa Samir was found hanged, and Peruvians Omar Casis and Renaldo Montesinos were shot and killed at the maximum security San Pedro de Chonchocoro prison located near La Paz, which houses the country's most violent prisoners and terrorists. Investigations into these deaths were pending at year's end.

On May 10, the Government inaugurated a new detention center in Chimore in the Chapare region built with assistance from an international donor. The new center, along with the adjoining old center that was refurbished, has a capacity to

house 150 detainees, instead of only 50 previously. The changes also permitted the Government to segregate male and female prisoners. In June the Government inaugurated a new prison in Potosi designed to hold 300 prisoners.

There are separate prisons for women; conditions for female inmates are similar to those for men. However, the San Sebastian women's prison in Cochabamba is one of the most overcrowded prisons—overcrowding there is worse than in most prisons for men.

Convicted juvenile prisoners are not segregated from adult prisoners in jails. Rehabilitation programs for juveniles or other prisoners are scarce to nonexistent. The Government has acknowledged these problems but does not have sufficient resources to correct them quickly.

The Government permits prison visits by independent human rights monitors and news media representatives.

d. Arbitrary Arrest, Detention, or Exile.—There were some instances of arbitrary arrest and detention. Arrests are carried out openly. The new CCP requires an arrest warrant, and the police must inform the prosecutor of the arrest within 8 hours. The prosecutor within 16 hours then must have the detainee released under bail or ask a court to continue to hold the detainee in jail until trial. A detainee may not be held for more than 24 hours without court approval. However, there were credible reports that these legal safeguards were violated in some cases.

Denial of justice through prolonged detention remains a serious ongoing problem, although this began to change with the full implementation in May of the new CCP (see Section 1.e.). The new CCP provides that a detainee cannot be held for longer than 18 months awaiting trial and sentencing. If the process is not completed in 18 months, the detainee may request his release by a judge. However, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures keep persons incarcerated for months, or even years, before trial. The Constitution provides for judicial determination of the legality of detention. Prisoners are released if a judge rules detention illegal, but the process can take months. Prisoners may see a lawyer, but approximately 70 percent cannot afford legal counsel, and public defenders are overburdened (see Section 1.e.).

The May report of the U.N. Committee Against Torture estimated that two-thirds of the prison population are waiting for the processing of their cases to be finished, an increase from 60 percent according to a report in 1998. An estimated 30 percent of those awaiting judgement in 1998 already had served what would have been the maximum sentence for the crime they were accused of committing.

The Government continued to address the problem of delay of justice by implementing the 1994 constitutional reforms to streamline the judicial system and by taking measures to correct other deficiencies as they come to light. In May 2000, provisions of the CCP replaced the release provisions of the Personal Recognizance Law, promulgated in 1996, which never were utilized effectively. Most prisoners still await either trial or sentencing, but under the CCP the courts are beginning to provide release on bail for some prisoners. Judges still have the authority to order preventive detention for suspects under arrest deemed to be a flight risk or for obstruction of justice. If a suspect is not detained, a judge still can order significant restrictions on a suspect's travel.

Children from 11 to 16 years of age can be detained indefinitely in children's centers for known or suspected offenses, or for their protection, simply on the orders of a social worker. There is no judicial review of such orders.

The 1997 detention case of Waldo Albarracin, President of the Bolivian APDH, continued to move slowly through the judicial system. The authorities had yet to take any action regarding the four police officials accused of abducting Albarracin, although legal cases against two policemen were pending at year's end.

The Government does not use forced exile.

e. Denial of Fair Public Trial.—The judiciary is generally independent; however, corruption and inefficiency in the judicial system remain major problems. Poor pay and working conditions make judges and prosecutors susceptible to bribes.

The judicial system has three levels of courts: Trial court, superior court, and the Supreme Court or Constitutional Tribunal appellate review. The Supreme Court hears appeals in general, while the Constitutional Tribunal only hears appeals on constitutional issues.

With the full implementation in May of the CCP, the criminal justice system changed from essentially a closed, written system to a system of transparent oral trials. The old, highly formal, and often corrupt judicial system made it difficult for poor, illiterate persons to have effective access to courts and legal redress. In addition, under the old system, inefficiency and delay could result in a lengthy judicial process or prolonged pretrial incarceration (see Section 1.d.). The CCP specifically addresses this problem by requiring that no pretrial detention exceed 18 months.

In cases in which a sentence has been issued, but the case is being appealed, the maximum period of detention is 24 months.

In March the Government enacted a new Public Ministry Law to adapt the prosecutorial function of the judicial system to the requirements of the CCP. Under the new CCP, the prosecutor, instead of the judge, is in charge of the investigative stage of a case. The prosecutor instructs the police, from the perspective of a legal practitioner, as to what witness statements and evidence are needed to prosecute the case. Counternarcotics prosecutors lead the investigation of narcotics cases.

During the first stage, the prosecutor tries the case before a judge of instruction if it is a misdemeanor case (which carries a possible sentence of less than 4 years), or before sentencing courts that include three citizen judges (jurors) and two professional judges for felony cases (possible sentence of 4 years or more).

The superior court review is restricted to a review of the application of the law. Supreme Court review, the third stage, is restricted to cases involving exceptional circumstances. During the superior court and Supreme Court reviews, the courts may confirm, reduce, increase, or annul sentences, or provide alternatives not contemplated in lower courts.

Defendants have constitutional rights to a presumption of innocence, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, and to appeal judicial decisions. In practice almost none of these rights have been protected systematically, although the implementation of the CCP has begun to alleviate some of the problems by facilitating more efficient investigations, transparent oral trials, and credible verdicts. The timely delivery of justice also has been aided by the introduction, with the assistance of an international donor, of a modern, computerized system for tracking cases in the investigative stage and in the courts.

The law provides for a defense attorney at public expense if needed; however, one is not always promptly available. In 2000 the Government hired 49 additional staff members to bolster rural public defense, achieving a total of approximately 167 public defenders, legal assistants, and social workers. The public defender program also provides information about human rights to citizens and seeks to involve public defenders in arrest cases at the earliest possible juncture to ensure that human rights and due process are honored. A program of mobile public defenders who can reach the more remote parts of the country has proven somewhat effective. However, public defenders remained overburdened.

The CCP also recognizes the conflict resolution traditions of indigenous communities, but not the imposition of the death penalty (see Section 1.c.).

The Judicial Council oversees the disciplinary aspects of the judicial process and provides an impartial body to review the actions of judges. Its powers include the authority to conduct administrative investigations and to censure for malpractice judges at all levels found culpable of malfeasance. By early 1999, the Judicial Council had investigated numerous reports of judicial corruption, which led to the resignation or dismissal of more than 20 judges in Santa Cruz, Cochabamba, and La Paz. One of the dismissed superior court judges, who allegedly accepted bribes from narcotics traffickers, protested his dismissal to the Constitutional Tribunal. In October 1999, the Constitutional Tribunal ruled that the Judicial Council did not have the power to dismiss a superior court or higher level judge. The Tribunal ruled that the removal of such a judge from office requires a final judgment and sentence of conviction in a criminal case tried before the Supreme Court. The Tribunal's decision dealt a serious blow to the Judicial Council, weakening its role as a disciplinary body. Nevertheless, the Council retains its power to suspend without pay, for up to 13 months, judges against whom a criminal charge has been filed or against whom a disciplinary process has been initiated. At year's end, legislation was pending to give the Council the power to effect suspension of up to 3 years or specifically to establish the Council's power to dismiss judges found guilty of malpractice by the Council.

In February a counternarcotics prosecutor in Trinidad received death threats.

The military justice system generally is susceptible to senior-level influence and corruption and avoids making rulings that would cause embarrassment to the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report of the findings. The results of the findings are forwarded to a judicial advisor, who usually is located at the division level. The advisor then recommends a finding of either innocence or guilt. For minor infractions, the advisor may recommend sanctions such as house arrest or loss of time-in-grade (which delays promotions and future assignments). For major infractions, the case is forwarded to a military court (the permanent tribunal for cases involving enlisted members and officers below the rank of general/admiral, and the supreme tribunal for generals/ad-

mirals and appeals of cases from the permanent tribunal). General officers head both tribunals. For the permanent tribunal, a judge-advocate of war (usually a civilian lawyer) reviews the findings of the advisor and may change the recommendations of the advisor. The permanent tribunal usually accepts the recommendations of the judge-advocate of war.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for the sanctity of the home and the privacy of citizens; however, while the authorities generally respect these provisions, there were credible allegations of security forces involved in thefts of property. Residents in the coca-growing areas generally are reluctant to file and pursue formal complaints.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for the right to express ideas and opinions freely by any means of dissemination; however, there are some limitations on freedom of speech, and state agents attempted to intimidate some news media. Newspapers are privately owned, and most adopt antigovernment positions. State-owned and private radio and television stations generally operate freely.

The Penal Code provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from 1 month to 2 years. If the insults are directed against the President, Vice President, or a minister, the sentence may be increased by one-half.

Press associations criticized the Government for the death on September 27 of a civilian who was accompanying journalists as they approached an eradication camp near Loma Alta in the Chapare (see Section 1.a.). They also called for the Government to provide for protection and freedom of movement in the Chapare, where illegal coca growers often block roads (see Section 2.d.).

In February Congress passed a Public Ministry Law that obliged “any person or institution, public or private” to give the prosecutor information upon request. After journalists protested, the controversial provision of law was rescinded.

The 40-person La Paz Press Tribunal, an independent body, is authorized to evaluate journalists’ practices that are alleged to violate either the Constitution or citizens’ rights. The Government prohibits the importation of pornographic books, magazines, and artwork, but it does not block Internet sources of such material.

The Government does not restrict academic freedom, and the law grants public universities autonomous status.

b. Freedom of Peaceful Assembly and Association.—The law provides for the right of peaceful assembly, and the authorities generally respect this right in practice; however, security forces killed 11 persons and injured others during violent protests during the year (see Sections 1.a. and 1.c.). The authorities generally try to avoid confronting demonstrators; however, security forces clashed with union and other demonstrators on many occasions during the year. The authorities intervened only when rallies became violent or interfered substantially with normal civic activity. The police regularly used tear gas and other forms of crowd control. The Government routinely grants permits for marches and rallies. There were numerous demonstrations throughout the year; in some cases protesters blocked roads, and on several occasions protesters became violent. On June 28, protesters blockading the road from El Alto to Oruro beat Archbishop of El Alto Jesus Juarez Parraga. On July 2, demonstrations by small debtors (who had been protesting off and on for over 3 months) outside the Superintendency of Banks turned violent when protesters seized almost 100 hostages and strapped dynamite to some of them; the hostages were released early on July 3.

On March 22, acting on the orders of the Minister of Government, police peacefully rounded up and returned about 50 marching protesters to the town of Cocachamba, where they were released upon arrival. On April 20, the La Paz Superior District Court dismissed as “inadmissible” a constitutional challenge by the Human Rights Ombudsman to the Government peacefully breaking up a protest march on April 12 that included labor leaders. After stopping the march, security forces transported the approximately 70 protesters back to Cochabamba where all were released. The Ombudsman and the APDH declared the court’s decision political, and the Ombudsman appealed the case to the Constitutional Tribunal. The Ombudsman argued that the Government’s actions violated constitutional provisions for freedoms of expression and assembly. However, the tribunal ruled that the Government had not violated the marchers’ constitutional rights because the marchers continued to be able to express their views, and the march continued following the police intervention.

The law provides for freedom of association, and the authorities generally respect this right in practice. The Government requires NGO's to register with the appropriate departmental government.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Roman Catholicism predominates, and the Constitution recognizes it as the official religion. The Roman Catholic Church receives support from the State (about 300 priests receive small stipends) and exercises a limited degree of political influence.

Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. There were 272 registered religious groups, which were mostly Protestant; at year's end, approximately 127 applications were pending. The only minority religions in the country that have encountered problems are Hari Krishna and the Unification Church. Hari Krishna followers had registered as an educational organization instead of as a religious organization. The Government had denied religious registration to Hari Krishna practitioners in the 1980's on the grounds of what the Government describes as nonfaith-based activities of the group and has not acted on a new application by the group initiated in 2000. The Government considers the previous decision to be valid and in force. However, Hari Krishna continues to operate with official standing as an educational organization. In 1999 the Unification Church complained of harassment by the Government; however, the Church is registered with the Ministry of Foreign Affairs and Worship as a religious organization, and there have been no further developments.

In July 2000, then-President Banzer signed a Supreme Decree governing the relationships between religious organizations and the Government. The decree updated a similar decree dating from 1985, which had been the subject of criticism by Catholic and non-Catholic religious groups. The new decree reflects input from religious groups and, according to the Government, is designed to increase transparency and dialog in church-state relations.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—There are no restrictions on travel. However, on numerous occasions during the year, protesters blocked roads and highways, and illegal road blockages by illegal coca growers often restricted movement in the Chapare (see Section 2.a.). The law permits emigration and provides for the right to return. The Government does not revoke citizenship for political or other reasons.

The law provides for the granting of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The Government has accepted persons for resettlement; although it received no refugees during the year, the Government accepted 2 refugees in 2000, and over 40 refugees in 1999. The issue of the provision of first asylum did not arise during the year. After the 1996 takeover of the Japanese Ambassador's residence in Lima, Peru, by Tupac Amaru Revolutionary Movement (MRTA) terrorists, the authorities found that some MRTA activists had used Bolivia as a safe haven and announced a more restrictive policy on accepting Peruvian political asylees. Nonetheless, members of the MRTA and other terrorists continued to use the country as a safe haven and a place to plan activities.

There were no reports of persons forced to return to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Political parties ranging from far left to moderate right function openly. Implementing regulations for the 1994 constitutional revisions specify that half of the congressional deputies be elected individually and directly, rather than from party lists. The first national election under these regulations was held in 1997, with attendance by international observers. Only one instance of tampering with ballots was detected. Elections for national offices and municipal governments are held every 5 years; the next national election is scheduled for June 30, 2002. In August President Jorge Quiroga of the Nationalist Democratic Action party took office after President Banzer Suarez resigned due to serious illness. The governing coalition controls both houses of the legislature, holding 19 of 27 seats in the Senate and 66 of 130 seats in the Chamber of Deputies. Coalition members hold the top leadership positions in both chambers.

The National Electoral Court (CNE) and its lower departmental courts oversee the electoral process, including voter registration, tabulation, and certification of ballots. On May 9, CNE Justice Jorge Lazarte Rojas resigned in protest against perceived politicization of the electoral courts, specifically the alleged party quota-based nomination of departmental electoral judges. On May 22, CNE President Juan Guzman announced his resignation for the same reasons. In July the Congress elected a new CNE, expanding its number from five to seven judges, declared the departmental electoral court positions vacant, and instructed the CNE to select new departmental electoral court judges and modify the Electoral Code so that head departmental electoral judges are selected by congressional vote.

There are no legal impediments to women or indigenous people voting, holding political office, or rising to political leadership; however, the percentages of women and indigenous people in government and politics do not correspond to their percentages of the population. Political parties acceded to demands from women that they be allocated a fair share of the candidacies in the 1997 national elections, approving a law that every third candidate on party lists be female. In addition, every other candidate on municipal election ballots, beginning with the second candidate, must be a woman—a requirement that has augmented female representation to approximately 30 percent of municipal council positions. However, in 2000 there were reports that in some municipalities party leaders pressured councilwomen to resign in favor of their male substitutes, and women in three separate municipalities allegedly were threatened with death if they did not resign their positions. There are 21 women among the 157 deputies and senators, 2 women among the 46 vice ministers, and 1 woman in the Cabinet.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views; however, NGO's and the Ombudsman have complained that government security forces and government ministries have refused in specific instances to cooperate when NGO's or the Ombudsman are conducting investigations. The Government criticizes human rights advocates for paying attention exclusively to the negative aspects of the Government's performance.

APDH President Albarracin and his family continued to receive anonymous threats in relation to the legal case against his alleged police abductors (see Section 1.d.). The APDH's branch office in Santa Cruz also received anonymous threats in 2000 related to its investigations regarding security forces; in 1999 unknown parties broke into its office and destroyed its computer.

The Human Rights Ombudsman is a position with a 5-year term established in the Constitution. The Ombudsman is chosen by Congress and is charged with providing oversight for the defense, promotion, and spread of human rights, specifically to defend citizens against abuses by the Government.

The Human Rights Ombudsman Ana Maria Romero de Campero conducted numerous investigations and in November presented a comprehensive report to Congress that was critical of the Government. Its primary conclusion was that for the third year in a row, the police force was the government organization most often accused of human rights abuses. Indigenous people filed approximately 60 percent of all complaints received by the Ombudsman, and approximately 60 percent of all complaints received were filed by men. The Chamber of Deputies Human Rights Committee, led by an opposition party congressman, also presented its annual report in August 2000, which criticized the Government.

Early in the year, the Government added a human rights prosecutor to the Chimore human rights office of the Ministry of Justice and Human Rights in the Chapare region, which the Government had reopened in May 2000 with assistance from an international donor. All of the human rights offices in the Chapare region had closed in 1999. The office accepts and pursues complaints of abuses committed by anyone, including police, narcotics traffickers, and illegal coca growers.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, language, religion, political or other opinion, origin, or economic or social condition; however, there was significant discrimination against women, indigenous people, and the small Afro-Bolivian minority.

Women.—Violence against women is a pervasive problem, but no scheme exists to register such incidents systematically. According to the National Police's Depart-

ment of Statistics and Planning, in 1998 approximately 57 percent of reported assaults were against women. According to a 1997–98 study conducted by the Pan-American Health Organization and the Ministry of Health among women in three municipalities representative of the country's three major cultural and geographic zones, 62 percent of women reported experiencing some kind of domestic violence or abuse at least once in their lifetime. Approximately 21 percent had suffered psychological abuse, 28 percent had suffered non-life-threatening physical violence, and 13 percent had suffered life-threatening violence. It is estimated that only one out of every five incidents of violence against women is reported.

The Family Violence Units of the police handle crimes of domestic violence and physical and/or sexual abuse against women and children.

Rape is also a serious problem that is highly underreported. The Law on Domestic and Family Violence makes the rape of an adult victim a public crime; however, the victim must press charges. The law also broadened the definition of family member abuse. The 1999 Law against Sexual Violation created the new crime of statutory rape of a person from 14 to 18 years of age and established new penalties: 10 to 20 years for the rape of a child under the age of 14; 2 to 6 years for statutory rape; and 5 to 20 years for the rape of an adult. The new Code of Criminal Procedures provides that crimes against adults included in previous laws on sex crimes can be made public crimes; however, the victim must press charges. Sexual crimes against minors automatically are considered public crimes. Public agencies state that reports of abuse have increased markedly as a result of these laws, as citizens have become more aware of the problem and of the availability of help.

Prostitution is legal for adults age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor (see Section 6.f.).

The new Code of Criminal Procedures (see Section 1.e.) for the first time considers sexual harassment a civil crime, also resulting in greater protection under the law. There are no statistics on the incidence of sexual harassment, but the problem generally is acknowledged to exist widely in the male-oriented society.

Legal services offices devoted to family and women's rights operate throughout the country. The Maternal and Infant Health Insurance Program provides health services, focused on maternal and infant health, to women of reproductive age and to children under the age of 5.

Women generally do not enjoy a social status equal to that of men. Many women do not know their legal rights. Traditional prejudices and social conditions remain obstacles to advancement. The Labor Code restricts the proportion of women staff in business to 45 percent of the workforce unless large groups of women are required in a particular enterprise; however, this restriction is not enforced actively. Women generally earn less than men for equal work; however, the minimum wage law treats men and women equally. Most women in urban areas work in the informal economy and the services and trade sectors, including domestic service and micro-business, whereas in rural areas the vast majority of economically active women work in agriculture. Young girls often leave school early to work at home or in the economy. According to a 1997 study by the Ministry of Education, four out of five illiterate citizens are female. Girls have lower rates of school participation and higher dropout rates than boys. Although not effectively enforced, the national labor law limits women to a workday 1 hour shorter than that of men and prohibits them from working at night (see Section 6.e.).

Children.—The Government is aware of the precarious situation of children and the need to provide legal and institutional infrastructure for their protection. There are seven Defender of Children and Adolescents offices in La Paz to help protect children's rights and interests. However, the Government has not given the poor situation of children sufficient political priority to improve conditions quickly and effectively.

Although the law requires all children to complete at least 5 years of primary school, this requirement is enforced poorly, particularly in rural areas. The Ministry of Education and the World Bank estimated in 1997 that 26 percent of children graduated from high school. Prolonged teachers' strikes often result in lengthy school closures, limiting children's access to education.

The National Institute of Statistics calculated in 1998 that approximately 24 percent of children less than 3 years old were chronically undernourished. A 1999 UNICEF report on infant mortality indicated that 85 of every 1,000 children die before they reach 5 years of age. Many children, particularly from rural areas, lack the birth certificates and identity documents they need to secure social benefits and protection.

Physical and psychological abuse in the home also are serious problems. Corporal punishment and verbal abuse are common in schools.

Child prostitution is a problem, particularly in urban areas and in the Chapare region. At least two NGO's, Fundacion La Paz and Q'Haruru, have active programs to combat child prostitution. The Government's plan to combat child labor includes a campaign against child prostitution (see Section 6.d.).

There were reports of children trafficked for forced labor to neighboring countries (see Section 6.f.).

The 1999 Code for Boys, Girls, and Adolescents establishes, augments, and further safeguards the rights of children and adolescents. It also regulates adoptions and tightens protection against exploitative child labor and violence against children. However, resource constraints continue to impede full implementation of this law.

Children from 11 to 16 years of age can be detained indefinitely in children's centers for known or suspected offenses, or for their own protection, simply on the orders of a social worker (see Section 1.d.).

Child labor is a problem (see Section 6.d.). In April the Government's Inter-Institutional Commission for the Progressive Elimination of Child Labor formally released a finalized national plan to address the problem of child labor, which includes programs to address financial, health, education, and other needs of children (see Section 6.d.).

Persons with Disabilities.—The Law on Disabilities requires wheelchair access to all public and private buildings, duty free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille. A National Committee for Incapacitated Persons oversees the law's enforcement, conducts studies, and channels and supervises programs and donations for the persons with disabilities; however, there is little information on its effectiveness. The electoral law makes arrangements for blind voters. However, in general there are no special services or infrastructure to accommodate persons with disabilities. A lack of adequate resources impedes full implementation of the law. Societal discrimination keeps many persons with disabilities at home from an early age, limiting their integration into society.

Indigenous People.—Discrimination against, and abuse of, indigenous people continued. The indigenous majority generally remains at the low end of the socioeconomic scale, and faces severe disadvantages in health, life expectancy, education, income, literacy, and employment. More than one-half of all citizens speak indigenous dialects as their first language, and many speak no Spanish at all, which essentially excludes them from most of the formal economy. Lack of education, inefficient farming and mining methods, indigenous cultural practices, and societal biases keep the indigenous people poor. They continued to be exploited in the workplace. Some rural indigenous workers are kept in a state of virtual slavery by employers who charge them more for room and board than they earn. Although the Agrarian Reform Law extended the protection of the national labor law to all paid agricultural workers, including indigenous workers, the problem persists due to lack of effective enforcement. The vast majority of conscripts are indigenous.

The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. The Government and indigenous leaders jointly developed provisions of this law. However, the issue of land, specifically the Agrarian Reform Law, has been a constant source of complaints and protests by indigenous people. Indigenous people complain that their territories are not defined legally or protected, and that outsiders exploit their resources. Specific offenders allegedly are illegal coca growers and timber pirates.

Indigenous groups have taken advantage of the Popular Participation Law to form municipalities that offer them greater opportunities for self-determination. The new Code of Criminal Procedures recognizes the conflict resolution traditions of indigenous communities (see Section 1.e.).

On August 23, the Government signed an agreement with the CSUTCB that committed the Government to provide \$70 million (455 million bolivianos) in various service projects and credit to indigenous communities, as well as other commitments. Implementation of the agreement was underway at year's end.

National/Racial/Ethnic Minorities.—There is ongoing societal discrimination against the small Afro-Bolivian minority. Afro-Bolivians generally remain at the low end of the socioeconomic scale, and face severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of Afro-Bolivians live in the Yungas region of the Department of La Paz.

Section 6. Worker Rights

a. The Right of Association.—Workers may form and join organizations of their choosing; however, labor leaders consistently state that a section of the Economic

Liberalization Decree, which addresses the free contracting of labor, undermines any protections against dismissal without cause. Labor leaders allege that employers use or threaten to use this article to limit unionization. The Labor Code requires prior government authorization to establish a union, permits only one union per enterprise, and allows the Government to dissolve unions by administrative fiat; however, the Government has not enforced these provisions in recent years. The law requires the Government to confirm the legitimately elected officers of unions; while this is sometimes difficult due to the fact that unions usually do not follow clearly democratic practices, the Government is not known to favor candidates for political or other reasons. While the code denies civil servants the right to organize, nearly all civilian government workers are unionized. Workers generally are not penalized for union activities; however, security forces clashed with union and other demonstrators on many occasions during the year, resulting in some deaths and hundreds of injuries (see Sections 1.a. and 2.b.). On April 12, the Government forcibly rounded up protesters, including union members, marching from Cochabamba to La Paz and returned them by bus to Cochabamba rather than permitting them to reach La Paz (see Section 2.b.).

In theory the Bolivian Labor Federation (COB) represents virtually the entire work force; however, only about one-half of workers in the formal economy actually belong to labor unions, and employment in the formal economy has fallen markedly compared to that in the "informal," typically unorganized sector (an estimated 70 percent of the total workforce).

The most active labor demonstrations during the year were initiated by workers who are outside of the traditional employer-employee framework, specifically cooperative miners; truckers; and indigenous, subsistence farmers. These small capitalists as well as workers in the informal economy often are organized into labor or trade organizations. The CSUTCB, led by Felipe Quispe, is not a trade union in the traditional sense, since there is no counterpart employer with which to bargain. The CSUTCB is designed to maximize the power of indigenous farmers with respect to the Government and traditional trade unions.

In 2000 the Government stopped work on draft legislation to modernize the antiquated Labor Code and patchwork of labor laws and to make them conform to International Labor Organization (ILO) conventions that the Government already has ratified. In many respects, the country's labor laws and regulations are favorable to workers; however, lack of enforcement and in some cases unrealistic objectives have led many of the standards to be ignored in practice.

The Labor Code bans strikes in public services, including banks and public markets; however, workers in the public sector frequently do strike. The ILO has requested changes to the Penal Code, which criminalizes strikes by government workers in the areas of public safety, with the possible sanction of compulsory labor. The Government does not use this sanction in practice. Many workers in key sectors, including the National Police, have engaged in work stoppages without facing administrative or legal penalty. Solidarity strikes are illegal, but the Government has neither prosecuted those responsible nor imposed penalties. Significant strikes and protests in May centered around annual negotiations over salaries and benefits for public employees and proposed changes in the Government's pro-market economic and social policies. A strike by public health workers in April caused hardship for citizens, and teachers in La Paz struck for a week in early May.

In May a district court sentenced two mining-sector labor leaders to 15 years in prison for their involvement in the death of a police officer during violent protests in 1996; however, there was no apparent evidence linking them directly to the death (see Section 1.a.).

Unions are not free from influence by political parties, but many in organized labor increasingly reject existing political parties and support movements seeking fundamental change in the economic and political system. Most parties have labor committees that attempt to influence union activity and also have party activists inside the unions.

The law allows unions to join international labor organizations. The COB is an affiliate of the communist, formerly Soviet-dominated, World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively.—Workers may organize and bargain collectively. Collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the Government, is limited. The Labor Code was written in a period in which the COB, which purports to represent all worker groups and interests, had quasi-governmental status and the exclusive authority to negotiate with state-owned enterprises. The practice was for the COB and the Government to negotiate a global agreement on salaries, minimum wages, and other work conditions each year. With the privatization of most of these enter-

prises, the COB's relevancy has diminished markedly, and the practice of direct employee-management negotiations in individual enterprises is expanding.

The law prohibits discrimination against union members and organizers. Complaints go to the National Labor Court, which can take a year or more to rule due to a significant backlog of cases. The court has ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders say that problems are often moot by the time the court rules.

Labor law and practice in the seven special duty-free zones are the same as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including forced and bonded labor by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers (see Sections 5 and 6.d.) constitute violations, as do some individual cases of household workers effectively held captive by their employers. The ILO Committee of Experts Observations report that the abuses and lack of payment of wages constitute forced labor in the agriculture sector. In addition, women were trafficked for the purpose of prostitution, and women and children were trafficked for the purpose of forced labor to neighboring countries (see Section 6.f.). Some conscripts are required to perform domestic tasks for officers.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits all work for payment by children under the age of 14; however, this prohibition generally is not enforced. Child labor is a serious and increasing problem. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for those 12 to 14 years old. The ILO has criticized this practice, which is considered by some to be tantamount to bondage (see Section 6.c.).

Approximately one in every four children between the ages of 7 and 14 is employed in some way. A 1999 study by the ILO estimated that approximately 70,000 children between the ages of 7 and 14 were working in cities, and that approximately 300,000 children in the same age group were working in rural areas. The children usually worked to help provide for family subsistence, in uncontrolled and sometimes unhealthy conditions. Projecting based on 1992 census data, the Government estimated in 1999 that 800,000 children and adolescents between the ages of 8 and 18 were working. The extreme poverty of many families dictates the involuntary employment of their children for motives of survival.

In April the Inter-Institutional Commission for the Progressive Elimination of Child Labor, formed in 1999, formally released a finalized 10-year, \$90 million (585 million bolivianos) "Plan for the Progressive Elimination of Child Labor." The plan, released informally in December 2000, includes programs to address financial, health, education, and other needs of children and calls for incentive programs to poor families to keep children in school, improved governmental enforcement of labor laws, and immediate actions to prevent the worst forms of child labor. However, the plan has little funding, and the Government continued to seek donor support of individual project activities. The plan also calls on the Government to ratify ILO Convention 182 on the worst forms of child labor, which it had not done at year's end.

The Labor Ministry is responsible for enforcing child labor provisions but generally does not enforce them throughout the country. Urban children sell goods, shine shoes, and assist transport operators. Rural children often work with parents from an early age, generally in subsistence agriculture. Children generally are not employed in factories or formal businesses but, when employed, often work the same hours as adults. Children also work in the mines and other dangerous occupations in the informal sector. Child prostitution is a growing problem (see Section 5).

On May 15, Defense of Children International, an NGO, criticized narcotics traffickers for using children under the age of 14 to transport drugs as "mules."

The old practice of "criadito" service still persists in some parts of the country. Criaditos are indigenous children of both sexes, usually 10 to 12 years old, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. There are no controls over the benefits to, or treatment of, such children, who may become virtual slaves for the years of their indenture.

The law prohibits forced and bonded labor by children; however, the practices of criadito and agricultural servitude by indigenous workers constitute violations, as do some individual cases of household workers effectively held captive by their employers (see Sections 5 and 6.c.).

e. Acceptable Conditions of Work.—In conformity with the law, the minimum wage is subject to annual renegotiation and increased in January by almost 9 percent to approximately \$59 (400 bolivianos) per month, plus bonuses and fringe benefits.

After negotiations the Government establishes the minimum wage for the public and private sectors by supreme decree. The minimum wage does not provide a decent standard of living for a worker and family, and most formal sector workers earn more, although many informal sector workers earn less. Although the minimum wage falls below prevailing wages in most jobs, certain benefit calculations are pegged to it. The minimum wage does not cover members of the informal sector, who constitute the majority of the urban work force, nor does it cover farmers, who account for some 30 percent of the working population.

Although not effectively enforced, the law establishes an 8-hour workday and a maximum workweek of 48 hours, limits women to a workday 1 hour shorter than that of men, and prohibits women from working at night (see Section 5). The Labor Ministry's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards are enforced poorly. Many workers have died due to unsafe conditions. However, during the year, the Government began to receive technical assistance in the occupational safety area from an international donor. The Labor Ministry maintains a hot line for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector are particularly poor. Although the State Mining Corporation has an office responsible for safety, many mines, often old and using antiquated equipment, are dangerous and unhealthy. In some mines operated as cooperatives, miners earn less than \$3 (20 bolivianos) per 12-hour day. Miners work without respirators in mines where toxic gases and cancer-causing dusts abound; buy their own supplies, including dynamite; have no scheduled rest periods; and many work underground for up to 24 hours continuously. There are no special provisions in the law defining when workers may remove themselves from dangerous situations. Unless the work contract covers this area, any worker who refuses to work based on the individual's judgment of excessively dangerous conditions may face dismissal.

f. Trafficking in Persons.—The law prohibits trafficking in persons for the purpose of prostitution. There are no other laws that specifically address trafficking in persons, although many aspects of the problem are covered in other laws and in the Constitution. Trafficking in women and children is a problem.

There were reports of domestic trafficking in women for the purpose of prostitution. A union leader asserted that employment agencies lure rural indigenous women to cities with promises of employment as domestic servants but then force them to work without salaries to repay transport and other fees and sometimes turn them over to houses of prostitution.

There were credible reports that Bolivia is a country of origin for trafficked persons for forced labor in neighboring countries, especially Argentina, and to a lesser extent Chile and Brazil, although there are no reliable estimates available as to the extent of the problem. A small percentage of economic migrants receive fraudulent information about prospective jobs in neighboring countries, which turn out to be forced labor under harsh conditions. Some of the fraud leading to involuntary servitude originates within the country.

Women and adolescents, especially from indigenous ethnic groups in the altiplano (high plains) region, appear to be more at risk of being trafficked. Victims generally are trafficked to Argentina to work in agriculture, factories, trades, and as domestic employees; to Chile to work as domestic employees; and to Brazil to work in factories and as domestic employees.

The Government, including top immigration officials, does not facilitate, condone, or otherwise act complicitly in trafficking; however, individual low-ranking employees of various government agencies are known to take bribes to allow various types of smuggling, including contraband and persons. There also are allegations that Minor's Judges, who are responsible for issuing judicial orders that permit adolescents to travel alone, are receptive to bribes to facilitate the issuance of such orders.

The Immigration Service is primarily responsible for combating trafficking, with the assistance of the National Police when active law enforcement investigations are necessary. The Immigration Service has responsibility for all ports of entry/exit and border crossings. There is an interagency Minor's Committee formed to combat trafficking in adolescents for forced labor to neighboring countries. However, the Government lacks the resources necessary to address this problem to a greater extent.

The 1999 Law for the Protection of the Victims of Crimes Against Sexual Freedom specifically outlaws trafficking in persons for the purpose of prostitution and provides for sentences of up to 12 year's imprisonment. Heavier sentences are imposed if the victim is a minor. There are also laws prohibiting the falsification of government documents, such as passports, visas, and civil registry documents. In addition, the Penal Code prohibits slavery or an "analogous state," and it is punishable with 2 to 8 years of imprisonment. The Government also cooperates with other govern-

ments to investigate and prosecute trafficking cases. There were no known prosecutions during the year.

BRAZIL

Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In 1998 voters elected President Fernando Henrique Cardoso, of the Brazilian Social Democratic Party (PSDB), to a second 4-year term. The 1998 elections marked the third time since the end of military rule in 1985 that citizens freely chose their president and elected the legislative bodies in accordance with the 1988 Constitution. All parties are able to compete on the basis of fair and equal procedures. The judiciary generally is independent; however, it is inefficient and, especially at the state level, subject to political and economic influence.

The military forces are responsible for national defense and are subject to effective civilian control, both in law and in practice. The federal police force is very small and primarily investigative. It plays little role in routine law enforcement. Police forces fall primarily under the control of the states. State police are divided into two forces. The civil police have an investigative role, and the uniformed police, known officially as the "military police," are responsible for maintaining public order. Although the individual state governments control the uniformed police, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintain some military characteristics and privileges, including a separate judicial system. The state police forces committed numerous serious human rights abuses.

The country's population is approximately 172.8 million and the economy is market-based and diversified. The Government, which traditionally played a dominant role in shaping economic development, is encouraging greater private sector participation in the economy through privatization of state enterprises; deregulation; and removal of some impediments to competition, trade, and investment. Industrial production, including mining operations and a large and diversified capital goods sector, accounts for 36 percent of gross domestic product (GDP), agriculture contributes 7 percent, and services account for 57 percent. Exports consist of both manufactured and primary goods. Among the principal exports are iron ore, coffee, airplanes, soybeans, footwear, automobiles, and telecommunications equipment. Per capita GDP in 2000 was approximately \$3,600, and the economy grew by 4.5 percent. Income distribution remained highly skewed: In 2000 the poorest half received only 10 percent of national income while the richest tenth received 48 percent.

The Federal Government generally respected many of the human rights of its citizens; however, there continued to be numerous serious abuses, and the record of some state governments was poor. State police forces (both civil and uniformed) committed many extrajudicial killings, tortured and beat suspects under interrogation, and arbitrarily arrested and detained persons. Police also were implicated in criminal activity of all kinds, including killings for hire, death squad executions, extortion, kidnappings for ransom, and narcotics trafficking. In April U.N. Special Rapporteur for Torture Sir Nigel Rodley released his report on torture, which contained many examples of the use of torture by police and prison administrators, and strongly criticized the Government for not taking measures to eliminate the use of torture. The authorities often failed to prevent violence inside prisons. The state governments concerned did not punish most perpetrators of these abuses effectively. Police tribunals (special courts for the uniformed police) remained overloaded, rarely investigated cases thoroughly, and seldom convicted abusers. The separate system of uniformed police tribunals contributed to a climate of impunity for police officers involved in extrajudicial killings or abuse of prisoners. Prison conditions ranged from poor to extremely harsh. Prison officials often tortured and beat inmates. The judiciary has a large case backlog and often was unable to ensure the right to a fair and speedy trial. Justice is slow and often unreliable, especially in areas where powerful economic interests influence the local judiciary. Police used excessive force to disperse demonstrators on several occasions during the year, resulting in serious injuries and at least one death. Human rights monitors on occasion faced threats and harassment. Violence and discrimination against women were problems. Child prostitution and abuse also were problems. Despite constitutional provisions safeguarding the rights of indigenous people, government authorities often failed to protect them adequately from outsiders who encroached on their lands, and failed to provide them with adequate health care and other basic services in many areas. Discrimination against Afro-Brazilians is a problem. Violence against homosexuals

is a problem. Rural violence, including killings of land reform and rural labor activists, persisted. Forced labor continued to be a serious problem for adults and children, and there continued to be occasional reports of forced child labor. Trafficking in persons, particularly women and children for the purpose of prostitution, is a serious problem.

Due to jurisdictional and resource limitations, the efforts of the Federal Government to highlight human rights abuses and allocate federal resources to bolster the efforts of the states had limited impact in many of the states where human rights violations are most common. In December President Cardoso stated that he welcomed visits by international human rights groups to conduct investigations.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Unlawful Deprivation of Life.—State police (military and civil) committed numerous extrajudicial killings, which continued to be a serious problem throughout the country. The uniformed police summarily executed suspected criminals rather than apprehend them, and then filed false reports that the suspects were resisting arrest. Civil and military police in Sao Paulo state killed 703 persons during the year, compared with 837 killings in 2000. In April the U.N. Special Rapporteur on Torture noted that torture by officials in jails and prisons often resulted in death (see Section 1.c.). Harsh conditions in prisons and rioting led to the death of inmates (see Section 1.c.). Police killed at least one protester during the year (see Section 2.b.). Police also killed street children, indigenous persons, and labor activists (see Sections 5 and 6.a.). In addition, many other killings occurred as the result of death squads and other criminal groups, many of which included police as members. There continued to be numerous credible reports of state police officials' involvement in crime, including revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (see Section 1.e.). The authorities' failure to investigate, prosecute, and punish police who commit such acts created a climate of impunity that continues to encourage human rights abuses. Many persons were killed during the year in conflicts involving disputes of land ownership and usage.

In April a number of human rights organizations—including Justica Global, the Brazilian National Human Rights Movement, and the Brazilian Chapter of the Inter-American Platform for Human Rights, Democracy, and Development—released a report entitled “Summary, Arbitrary, and Extrajudicial Killings—An Approximation of a Brazilian Reality.” The report stated that the authorities summarily execute approximately 2,000 persons each year.

According to the Office of the Police Ombudswoman in Rio de Janeiro state, there were 9 reported police homicides in the state during the first 6 months of the year, only a small fraction of the actual total. Independent estimates were that the number of police homicides in the first 9 months of the year was similar to the number reported for the same period of 2000 (312 homicides). The Rio de Janeiro state government stopped releasing data on police-homicides after September 2000. Research conducted by the Institute for Religious Studies (ISER) in the mid-1990's suggested that the actual number of police homicides was double the number officially reported. The ISER report also stated that Rio de Janeiro police killed half of their victims with 4 or more bullets and shot the majority of victims in either the shoulder or the head; 40 cases clearly demonstrated execution-style deaths, in which police first immobilized the victims and then shot them at point-blank range. In 64 percent of the cases examined, the victims were shot in the back.

According to the Sao Paulo Ombudsman, civil and military police in Sao Paulo state killed 326 civilians during the first 6 months of the year, compared with 359 during the same period in 2000. A Sao Paulo police ombudsman's report released in July 2000 showed that of the 664 persons killed by police officers in 1999, 31 percent were committing crimes at the time they were shot, 56 percent had no previous criminal record, and 51 percent of the victims were shot in the back. Many human rights observers believe that the report reflects excessive use of force by the Sao Paulo police.

Lack of accountability and an inefficient criminal justice system allow impunity to continue. All crimes less serious than intentional homicide committed by uniformed police officers against civilians remained in the military justice system, in which long delays allow many cases to expire due to statutes of limitations (see Section 1.e.). One ombudswoman in Minas Gerais reported that many of the complaints that are referred to her through the police bureaucracy arrive after the statutory time limit for prosecution.

Human rights activists believe that the 1996 "Bicudo" law, which gives civil courts jurisdiction over intentional homicide against civilians committed by uniformed police officers, has had limited success. In 1995—the last year before the implementation of the law—police courts convicted 23 percent (48 of 205) of officers tried for homicide. In 1998 civilian courts convicted 48 percent (31 of 64) of officers charged with homicide. The comparable rate for civilians tried for murder in Sao Paulo was 50 percent. The law allows for civil prosecutors to review the most egregious cases, while less prominent cases are reviewed by the police force itself. Almost without exception, the police investigators conclude that suspects were resisting arrest.

In late 2000, the Sao Paulo Secretary of Security signed a resolution creating a Special Commission that seeks to curb excessive use of police force. As part of this effort, police in Sao Paulo who kill a suspect are required to fill out, within 24 hours, a detailed report explaining why lethal force was used. According to the Sao Paulo Ombudsman, police are boycotting this mandate and there is little compliance.

Following reports to the Ombudsman of Rio Grande do Sul State, the authorities in Canoas relieved two military police officers of duty and charged them with the August murder of 29-year-old Roberto Angelo de Souza. The victim was involved in a car accident but was not injured. However, the police took him to the hospital; upon his arrival approximately 40 minutes later, he was in a coma and subsequently died. The hospital porter found him in the police car with the seat belt wrapped around his neck. De Souza suffered brain hemorrhages and had bruising to the eyes, the thorax, and the kidneys. Doctors concluded that these bruises were not a consequence of the car accident.

In September three military police officers in Sao Leopoldo in the state of Rio Grande do Sul investigated a possible car robbery. Near the scene, they encountered 16-year-old tennis player Thomas Feltes Engel and two friends, who were returning to their car to pick up a cellular telephone. During the police search, Thomas was wounded fatally when he was shot from behind at close range. The policeman who fired the lethal shot claimed that he fired when the victim brusquely put his hands in his pockets, because he assumed that Engel was retrieving a firearm. Engel's two friends, who were each at his side during the episode, claimed that there was no such movement. An official inquiry was opened into this case and the policeman was charged with negligent homicide; the case was awaiting trial at year's end.

Two Sao Paulo military police were jailed in September, accused of homicide in the case of 24-year-old Sidney de Lima Advento. Advento was a "perueiro"—an unregistered taxi driver working in one of Sao Paulo's impoverished neighborhoods. During a police blitz (roadblock to enforce motor vehicle laws), he abandoned his minivan and fled to his grandfather's house nearby. According to the victim's family, police entered the house and shot him while he was hiding under a bed. He was unarmed. According to the Sao Paulo Ombudsman, one of the officers had four previous complaints registered against him, including one for homicide.

In February two Sao Paulo police officers arrested in December 2000 on the accusation of having killed four persons and injuring three in a bakery in Sao Bernardo do Campo were charged with homicide, relieved of duty, and imprisoned.

No further information was available concerning reports that in November 2000, a local police officer was arrested near Boa Vista, Roraima, on the accusation that he had participated in the killing of seven adolescents whose noisy party had bothered him. The case is believed to be inactive.

In a nationally televised bus hijacking in Rio de Janeiro in June 2000, police wounded a hostage while attempting to shoot the hijacker. The hijacker then killed the hostage. The hijacker was apprehended unhurt, but arrived dead at the hospital after police riding in the ambulance allegedly strangled him. All five policemen who faced criminal charges in the incident were acquitted, primarily on the grounds that they had acted in legitimate self defense.

In June a trial court absolved four uniformed police officers accused in the 1999 double homicide that took place in Sao Bernardo do Campo, Sao Paulo. The officers had suspected the victims of stealing a police motorcycle and allegedly killed the two youths by shooting them in the head; police also left a third youth for dead. The third victim survived by feigning death and was placed in a witness protection program.

At year's end, no trial date had been set for the five uniformed police officers charged with homicide in the 1999 shooting deaths of two persons, one of whom was mentally disabled, in Sao Paulo's Jardim Elba slum.

Four uniformed police officers charged with aggravated triple homicide, abuse of power, and hiding bodies remained in prison awaiting trial in a civil court for the highly publicized 1999 killing of three persons, including two juveniles in Sao Paulo.

The officers arrested the victims for fighting, beat them, and then were seen leading them into a forested area near where the bodies were found 2 weeks later. The officers confessed to the killings after 19 witnesses came forward to testify against them and a DNA test identified blood inside the police car as that of one of the victims.

There was no information available about an investigation into the February 1999 killing of Antonio Lopes in Natal, Rio Grande do Norte state, or in the October 1999 killing of Robelio dos Santos, in Salvador, Bahia state, and the cases appear inactive.

The courts have acquitted 19 police officers and convicted 5 police officers charged with participation in the 1993 massacre of 21 residents of the Vigario Geral neighborhood in Rio de Janeiro. A total of 31 officers have been charged. As of September, four officers awaited trial after repeated postponements; three died before going to trial. None of the victims' families have received compensation from the Government.

The use of torture by police sometimes led to the death of the victims (see Section 1.c.).

Harsh and life-threatening prison conditions, official negligence, poor sanitary conditions, abuse by guards, and a lack of medical care led to a number of deaths in prisons. The authorities charged the director of security and discipline of Andradina Penitentiary in Sao Paulo State with triple homicide in the February asphyxiation deaths of prison gang members. According to press reports, the three had been locked in a van parked in the sun for almost 7 hours, without fresh air or water, following the gang's involvement in coordinated prison rebellions (see Section 1.c.). Inmates in prisons and at juvenile detention facilities rioted repeatedly during the year (see Section 1.c.). One of the worst riots occurred in February in Carandiru prison, where police, prison guards, or other inmates killed 16 prisoners. Television cameras showed riot police firing at unarmed prisoners from atop a wall, leading human rights groups to accuse police of the unprovoked killing of at least two prisoners. It is uncertain whether these two prisoners were killed by policemen or by other prisoners, and there has been no investigation of the police involved.

According to the Department of Penitentiaries of the Ministry of Justice, 1,284 prisoners died in the first 9 months of the year in the states of Alagoas, Espirito Santo, Mato Grosso do Sul, Paraiba, Pernambuco, Piaui, Sergipe, and Sao Paulo. Of these deaths, 59 were from injuries suffered during rebellions and 182 were from prisoner-on-prisoner violence. Following press reports that prisoners were being murdered at the rate of about one a week in the three largest prisons in Rio de Janeiro State, the Minister of Justice called for explanations from the director of the Rio State prison system. At year's end, official statistics on the prison murder rate were not available, but the prison director who assumed office in November believes that the press reports were exaggerated.

The trial of retired police Colonel Ubiratan Guimaraes took place in June, almost 9 years after the 1992 Carandiru prison rebellion in which 111 prisoners were killed. A court found him guilty and sentenced him to a 632-year prison term, although the term is limited to 30 years by the Constitution. He subsequently was released on appeal. Guimaraes was the first policeman of the rank of colonel to face a civilian jury under the Bicudo law. The other 85 officers who are accused of involvement still awaited trial at year's end. The statute of limitations expired for the charges of torture and beatings, but the officers can be tried for murder. All of the officers were released to await trial.

Police used excessive force to disperse demonstrators on several occasions during the year, resulting in serious injuries and at least one death (see Sections 1.c. and 2.b.). In July police in the Federal District killed one protester during a demonstration in support of land reform (see Section 2.b.).

In May 2000, police shot and killed a member of the Landless Movement (MST) during a confrontation between protesters and uniformed police in the state of Parana (see Section 2.b.). The policeman accused of this killing was absolved. Police also were accused of killing a demonstrator in July 2000.

In December 1999, police in the Federal District shot and killed one person and blinded another during a peaceful demonstration. The governor removed certain officials as a result; however, there were no further developments and none appears likely.

Police killings of street children continued (see Section 5).

Indigenous activists claimed that police kidnaped and killed two Truka indigenous persons in January in the state of Pernambuco during a raid. No arrests were made in the case.

In August a Xucuru leader, Francisco de Assis Santana, was murdered in Pernambuco while on his way to a meeting with the National Indian Foundation

(FUNAI) to complain about encroachment on indigenous lands. No arrests had been made in the case at year's end.

No progress was reported in the investigation of the 1998 killing of Xucuru Chief Francisco "Xicao" de Assis Araujo. Araujo defended the land claims of his tribe, whose lands are being encroached upon by ranchers in his home state of Pernambuco.

On November 10, a court convicted four youths of aggravated homicide in the 1997 burning death of Pataxo indigenous leader Galdino Jesus dos Santos in Brasilia, and sentenced each of them to 14 years' imprisonment. The verdict followed a court decision allowing the youths to be tried for aggravated homicide rather than manslaughter.

On May 28, a federal court convicted 13 persons, including a professor and a large landowner, of genocide in the 1988 murder of 4 Ticunas in the state of Amazonas (known as the "Capacete" massacre). The court found that the accused intended to end the tribe's existence and sentenced them to up to 25 years in prison.

In an April decision, the Supreme Court overturned an innocent verdict in the case of a landowner accused of ordering the 1983 killing of Guarani land activist Marcal Tupa-I. No information was available as to the date of a possible new trial.

Several labor activists were killed during the year (see Section 6.a.).

In September two gunmen killed labor leader and city councilman Carlos "Gato" Alberto Santos de Oliveira in the state of Sergipe. The ICFTU reported that Oliveira's murder was a result of his worker rights activism and his efforts to end the exploitation of child labor by rural landowners and called for a complete investigation into the killing. In October the police arrested the mayor of Tomar de Geru (Sergipe), Gildeon Ferreira da Silva, and police officer Valmir dos Santos Souza on charges of ordering and carrying out the murder. Witnesses place Santos at the scene of the killing. Two gunmen who allegedly collaborated with Santos remained at large at year's end.

According to public security officials, death squads in which the police are involved contributed significantly to the level of violence and lawlessness. Human rights groups reported the existence of organized death squads linked to the police forces that target suspected criminals and persons considered "undesirable" (such as street children) in almost every state. In 2000 Amnesty International reported that police death squads still were active in Mato Grosso do Sul. A report on death squads issued by the Human Rights Committee of the Federal Chamber of Deputies in 1999 highlighted death squad activity with police involvement in the states of Bahia, Rio Grande do Norte, Mato Grosso do Sul, Mato Grosso, Amazonas, Para, Paraiba, Ceara, Espirito Santo, and Acre. The report stated that death squads "arise because of the loss of credibility in the justice and public security institutions and the certainty of impunity as the result of the incapacity of the institutions that have jurisdiction in resolving the problem." The report indicated that death squad activity appeared to be declining except in Bahia.

Between October 2000 and March, the inspector general of the police in the State of Rio de Janeiro received 51 complaints of police involvement in death squad killings. According to the complaints, at least 10 "extermination groups" were operating in the Rio de Janeiro metropolitan area. In April and May, the authorities arrested eight uniformed policemen, an investigative policeman, and two firemen suspected of participating in these groups. Three of the suspects were accused of the April 23 murder of 21-year-old Leonardo Marinho, son of another fireman. In Juazeiro, a city in the interior of Bahia State, a local judge identified 47 killings from January to March as the work of a death squad made up of uniformed and investigative policemen. Most of the victims were young, low-income men who had been accused of minor offenses or had served as police informants. A study by the Bahia State legislature found that between 1994 and 1999 extermination groups killed 438 persons in the state.

In 1999 the Governor of Espirito Santo stated that death squad activity involving the police contributed significantly to the level of violence in the state. A state police investigation and a state parliamentary committee of inquiry initially reported that an informal organization, the "Squad le Cocq" involving police, judicial, and elected authorities including Jose Carlos Gratz, president of the state assembly, was responsible for the vast majority of organized crime in the state. However, a 1-year investigation by the parliamentary committee failed to prove any of the accusations against the legislator.

An investigation initiated by the former president of the supreme court of Acre state and carried out in November 1998 under the auspices of the CDDPH amassed evidence that former Acre military police chief and former state and federal deputy Hildebrando Pascoal headed a crime ring and death squad in that Amazonian state linked to at least 30 murder and torture cases previously suspended by state au-

thorities for lack of evidence. Charges against Pascoal include the kidnaping—with the collusion of military police officers from Piauí—and murder of the suspected killer of Pascoal's brother, and the kidnaping of the victim's wife and children in an attempt to locate the victim. A congressional committee of inquiry also established Pascoal's control of narcotics trafficking within the state. A witness who testified before that committee identified the site of a mass grave in Acre that federal authorities believe Pascoal's organization used to dispose of at least eight murder victims. Pascoal's 1998 election to the federal Chamber of Deputies gave him parliamentary immunity from all prosecution. However, in 1999 the Chamber voted to remove Pascoal's immunity and the police subsequently arrested him. In September 1999, a court convicted Pascoal of murder and sentenced him to a 40-year prison term; at year's end, he remained imprisoned awaiting trial on six more charges of having ordered killings.

Many persons were killed during the year in conflicts involving disputes over land ownership and usage. The MST continued its campaign of legal occupation of lands identified as unproductive, and illegal occupation of land not yet so designated. The MST also continued its occupation of public buildings. MST activists often used confrontational and violent tactics, and destroyed private property during some occupations. The Catholic Church's Pastoral Land Commission (CPT), the country's foremost entity monitoring human rights in rural areas, reported 18 killings of landless activists from January through September. According to the CPT report, there were a total of 1,222 murders of landless activists from 1995 to September 2001. Only 85 of these cases were brought to trial. The state of Para had the greatest number of killings (468); there were 107 killings in Maranhão state.

A 2000 CPT report concluded that the impunity enjoyed by landed interests as a result of the "fragile" justice system and the collusion of local political interests continued to encourage serious human rights abuses of landless activists, including murder and torture. However, the report also noted that the tactics of the land reform movement have led to a self-perpetuating cycle in the past several years, in which increased confrontation and tension have led to increased government attention, encouraging in turn more land occupations.

The state of Para continued to be a focus of rural violence. In October the CPT issued a list of 22 activists in Para who had been marked for death by large landowners. According to the CPT, seven activists were killed in Para between June and September, including Ademir Alfeu Federicci ("Dema"), a prominent opponent of a large dam on the Xingu River. Despite the fact that nothing was taken from his home, the local police treated the murder as the result of a residential burglary.

In the state of Mato Grosso do Sul, several leaders of landless movements were killed during the year. In April civil police killed Jose Rafael do Nascimento, the founder and leader of the Movement of Rural Workers (MTR). Nascimento's wife claimed that plainclothes policemen killed her husband in an ambush. Police say that Nascimento was shot while resisting arrest. According to them, he was being pursued because he was wanted in connection with four homicides that occurred in São Paulo. Also in Mato Grosso do Sul, in June an unidentified gunman killed Valdecir Padilha, one of the local leaders of the MST, and in October MST leader Sebastiao Amaro de Macena was kidnaped, tortured, and murdered in the border township of Aral Moreira.

There was no information available in the case against a gunman who killed Jose Dutra da Costa, a rural activist in the state of Para in November 2000. Police arrested the gunman the same day and suggested that large landowners in the region may have ordered Costa's killing.

There were no arrests in the October 2000 death of Manuel Souza Neto, a leader of the MST. Members of the MST reported that landowners had sent death threats to the victim, and a landlord was suspected in his death. However, others note that the victim also was active in politics and that his killer could have been motivated by political goals.

In April 2000, the State Court of Para annulled a 1999 trial in Belem that acquitted 3 uniformed police officers in command of the unit responsible for the 1996 massacre of 19 landless workers at Eldorado de Carajas in the Amazonian state of Para. Human rights activists considered this decision a major blow against police impunity. After five changes of judges, a new trial had not taken place at year's end.

In September 2000, the State Court of Rondonia convicted 3 of 12 uniformed policemen of homicide and 2 squatters of complicity in the August 1995 killings of 11 squatters and 2 policemen in Corumbiara. The three officers received sentences of 16, 18, and 19 years respectively. The two squatters who were tried were not convicted of murder but of inciting the killings, and received 6 and 8 years respectively. Activists criticized the fact that the courts had acquitted 9 of the 12 police officers involved and that the court had not indicted the landowner who was involved di-

rectly in the conflict, despite the fact that there was a videotape of the landowner in which he told the police to attack the squatters, whom he called enemy guerrillas. In October the state court of Rondonia set aside the September 2000 verdict, and in November 2000, a court convicted one officer and two squatters. The defendants again requested a new trial (defendants can request a new trials two times).

There was no information available regarding the pending case of the 29 policemen charged as codefendants in the 1989 killings of landowner Jose Machado Neto and police officer Sergio Narciso da Silva.

b. Disappearance.—There were no reports of politically motivated disappearances.

A 1995 law recognized and assigned government responsibility for the deaths of political activists who “disappeared” during the military regime while in the custody of public officials, and obligated the Government to pay indemnities of between \$74,000 and \$111,000 (200,000 to 300,000 reais) to each of the families. In 1997 President Cardoso signed a decree awarding reparations to the families of 43 such persons. As of June 2000, 276 out of 336 requestors had received indemnities. A commission created by the law continued to evaluate requests for, and authorize payment of, indemnities.

Uniformed and civil police involvement in criminal activity is widespread. Throughout the country, police were implicated in crimes including kidnaping and extortion (see Sections 1.a. and 1.c.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—

The Constitution and a 1997 law prohibit torture and provide severe legal penalties for its use; however, torture by police and prison guards remains a serious and widespread problem. In an April report on torture in jails and prisons, the U.N. Special Rapporteur on Torture, Sir Nigel Rodley, concluded that torture occurred at all levels of detention and that it was widespread, systematic, and often resulted in death (see Section 1.a.). Rodley based his report on visits in 2000 to prisons in 5 different states, and documented 348 cases of torture most of which occurred since 1997. In responding to the Rapporteur’s report, the Government admitted that torture was widespread, promised to implement the report’s recommendations, and noted that they had supported fully the Rapporteur’s visit. The Government also noted that the Constitution prevents the Federal Government from controlling the actions of state governments and police authorities.

In April human rights groups in Sao Paulo claimed that, in the 8 months following the Special Rapporteur’s visit, Sao Paulo State alone had registered 206 cases of torture, with at least 584 victims. Several other human rights groups, including Amnesty International and Justica Global, issued separate reports on torture at the same time as the release of the U.N. report. The Amnesty International report noted with particular concern the fact that enforcement of the law against torture was the responsibility of the states, which often lacked the ability or will to implement it fully. Both the Special Rapporteur and Amnesty International’s report also stated that while men, women, and children were subject to torture, the overwhelming majority of victims were dark-skinned (of Afro-Brazilian descent) and poor.

Torture is practiced in every phase of detention: Initial questioning, temporary detention, and long-term detention. The report noted that the most common forms of torture were electric shocks, beatings, and threats. The victims of torture were generally poor, uneducated, and feared reporting their experiences. According to the report, police and prison officials usually are trained inadequately and do not know how to conduct proper investigations. Antonio Silva Henriques Gaspar, a member of the U.N. Committee Against Torture, reported that police officers who had been reprimanded for committing acts of torture continued to work in the same posts and police stations, and suspension was not carried out until the complaints were settled.

As in the cases of extrajudicial killings, the police act with a high level of impunity. A significant factor in impunity is that often police themselves have responsibility for investigating cases of torture carried out by fellow policemen. In coverage of the U.N. report, the press widely reported the statistic that in the 5 years since torture had been criminalized, authorities received over 700 complaints nationwide but had just 25 cases in process and only 2 convictions. The Government claimed that since the implementation of the 1997 law, 16 persons had been punished, and another 256 investigations were underway.

Long delays in the police special courts have allowed many cases of torture and lesser charges to expire due to statutes of limitations (see Section 1.e.).

Government officials have admitted that torture is used. Despite some preventive measures at the federal level, the problem remains most pervasive at the state level. In July the Government began a National Campaign to Combat Torture to sensitize all segments of society—judges, attorneys, and legislators, as well as the general

public—with a focus on the rights of prisoners. Judges, public prosecutors, and attorneys are expected to receive training in investigating complaints of torture. The campaign also includes media advertisements that torture is a crime and a nationwide toll-free number to receive complaints. In its first 2½ months of operation, this hotline registered 803 cases of torture, of which approximately 30 percent were by civil police and 27 percent by military police. The state of Sao Paulo had the greatest number of complaints (124), followed by Minas Gerais (112), Bahia (76), Para (70), Parana (53), the Federal District (43), and Rio de Janeiro (43). According to press reports, officials say that many persons are still afraid to register a complaint. In more than half the calls received, the caller hung up or remained silent.

The Sao Paulo state police ombudswoman received 486 complaints of torture (encompassing such acts as abuse of authority, aggression, and attempted homicide, as well as torture) through the first 8 months of the year, compared with 935 in 2000. In the sub-category of torture, the Ombudsman reported receiving 73 complaints during the year, compared with 148 in 2000. The decline in reported complaints largely is due to the fact that insufficient resources and staffing (including a 5-month gap in approving appointment of the Ombudsman) impaired functioning of the Ombudsman's office during the year. The Rio de Janeiro State police ombudsman received 634 complaints from April 1999 to June 2001 alleging unjustified police violence, including homicide, attempted homicide, beatings, and torture. During its first 27 months of operation, the office of the police ombudswoman in Rio de Janeiro state received 3,591 complaints from April 1999 through June 2000. Complaints against the uniformed police accounted for 60 percent of that total.

The U.N. Special Rapporteur on Torture noted that torture often resulted in deaths. He investigated the September 2000 death of Anderson Carlos Crispiniano, who alleged that he was the victim of police torture in Rio de Janeiro. In June 2000, Crispiniano was asleep at his home when a group of armed men identifying themselves as policemen forced their way in and arrested him without a warrant. They removed Crispiniano from his home and later telephoned to say that he was being held hostage for ransom. He later was released, badly beaten and partly paralyzed, and died after 15 days in the hospital. As of September, the perpetrators of the crime had not been identified.

There was no new information on the death of Nilson Saldinia, who died in June 2000 in the 50th district jail in Sao Paulo's Itaim Paulista neighborhood. Human rights groups claim that he died as a result of torture after police beat him and other prisoners with bars and metal rods and applied electric shocks to them. The investigation continued at year's end. The U.N. Special Rapporteur for Torture highlighted this case in his report.

In January the authorities accused Alexandre de Oliveira of Minas Gerais of rape after he took his infant daughter to the hospital for vaginal bleeding. The police severely beat Oliveira and threatened him with death; he was forced to confess. A subsequent exam showed that the cause of the bleeding was a tumor, but Oliveira was not released for another 12 days. As of September, no arrests had been made in the case, despite widespread media attention.

Another prominent case of torture occurred in January in Rio de Janeiro where two women were taken into custody by private security guards after allegedly shoplifting sunblock lotion from a Carrefour department store. Instead of turning the women over to police, the security guards called in local drug traffickers who beat the women. Police have charged three Carrefour employees and four alleged gang members in the case.

In January Ednaldo Viera Galdino registered a complaint against three military police in Sao Paulo city. Galdino was in a bar when the officers entered. One of them ordered him to leave. Galdino, who is hearing impaired, did not hear him and remained seated, at which time the officer began to beat and threaten him in the presence of some 50 persons. After filing a complaint, Galdino's family received threats. Two of the officers involved were identified and relieved of duty.

In February civil police in Sao Paulo state were accused of torturing 28-year-old Wander Cosme Carvalheiro. The victim reported that he was stripped naked, restrained with a rope, beaten, and subjected to electric shocks to his genitals; he said that officials were trying to obtain a confession for the murder of a Sao Paulo elected official. Afterwards, he claimed to have been taken to a medical examiner who did not examine him. After his transfer to another prison, he was threatened with further punishment if he reported his mistreatment to the authorities.

In April two police officers in Foz de Iguacu were accused of torture after beating two alleged cigarette smugglers. At year's end, the officers remained in detention awaiting trial of the case. Human rights groups noted the prompt decision to charge the officers under the law against torture.

Late in 2000, a 17-year-old named Bruno was tortured while the authorities attempted to obtain a confession for the theft of a radio. The torturers forced him to play Russian roulette, beat him, and set him on fire. He survived and was able to identify one of his torturers as a member of the military police. The accused policeman was dismissed from the force when the case was brought to trial.

In December 2000, two policemen severely beat Rangel Bezerra de Lima, in Ceilandia, Federal District. The reason given by the police during the attack was that they had experienced a "bad day." The Human Rights Division of the Ministry of Foreign Relations assisted Rangel in filing a complaint against the perpetrators, accusing the police of torture. The military police investigation did not discover the identities of the policemen.

In November 2000, at least five former prisoners who had been held in an Air Force prison in Rio de Janeiro made public their allegations of having been tortured during their time in prison. The allegations included accusations of beatings, electric shocks, and sexual abuse. The Federal Police announced that it would begin an investigation into the reports. In early December, the Human Rights Commission of the Chamber of Deputies began to investigate the allegations. However, no further information was available as to the status of the investigations.

In October 2000, the authorities arrested two civil guards in Sao Paulo and accused them of the sexual assault of three teenage girls caught trespassing in a cemetery. Police authorities began an internal investigation into the matter, but no further information was available on the status of the case.

In October 2000, Federal Highway Police arrested a Rio state policeman and accused him of having been a member of a gang that specialized in robbing trucks at gunpoint along the highways. Police were investigating the possible involvement of other officials in the activities of the gang. No further information was available as to the status of the investigation.

After the release of an October 2000 report by Amnesty International that included the case of "Jose", a juvenile in the state of Para who was beaten so severely by police that he has needed psychiatric treatment ever since, the Para state court ordered the Para state government to pay for rehabilitation for the youth, and the guards involved in the case were terminated from duty.

In 1999 the Globo newspaper in Rio de Janeiro published the results of an investigation into the allegations of torture by state police. The police opened a total of 53 investigations regarding complaints of torture against police authorities between 1997, when the torture law came into effect, and 1999. Only one of the inquiries, which had been suspended, officially had been concluded. The report identified several patterns of torture, including the use of electric shock, beatings with iron bars, and sexual abuse including sodomy with foreign objects. The report noted that police classified such incidents as abuse of authority and physical assault, offenses that are far less serious than torture. As a result of the report, the state government ordered an independent review of the 53 cases, and the Federal Government established a task force to review Rio de Janeiro state police practices; however, the task force had not reported its findings by year's end.

In 1997 at the direction of Captain Clovis Martins de Miranda Filho, as many as 10 civil policemen in Belem, Para state, severely beat and sexually abused Hildebrando Silva de Freitas. In 1998 an internal police investigation concluded that de Freitas had suffered severe physical injury and did not contest the testimony of the witnesses who corroborated his account, but declared that there was no connection between his injuries and the officers who had confronted him. At year's end, the case remained under review by the Para state prosecutors' office. De Miranda has brought a defamation suit against the state ombudswoman for public security in Para for statements that she allegedly made to the press regarding the case. The state has declined to bear the costs of the ombudsman's defense, and the suit was awaiting court decision at year's end.

In November a state court in Minas Gerais awarded compensation of \$11,000 (27,000 reais) to a laborer who had been tortured by police in 1993. The case also had been investigated by a Federal Commission Against Torture established in October as part of the Government's campaign against torture. The Commission includes both Government and NGO representatives and is mandated to review complaints of torture nationwide and to recommend investigation and prosecution of exemplary cases.

Police occasionally used excessive force against protesters, resulting in one death (see Section 1.a.). In April students from the University of Sao Paulo claimed that police had injured about 100 persons in breaking up a demonstration against the Free Trade Area of the Americas (see Section 2.b.).

Police violence against homosexuals continued (see Section 5). Police routinely extort money from transvestites and often beat or kill those who failed to cooperate.

Gay rights activists in the city of Recife compiled substantial evidence of extortion and the unlawful use of violence against transvestite prostitutes. In past years, flagrant abuses by the police in the states of Alagoas and Bahia have been reported. Several nongovernmental organizations (NGO's) have documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Sao Paulo, Salvador, Belo Horizonte, and Brasilia (see Section 5). In some cases, these gangs included police officers.

Uniformed and civil police involvement in criminal activity was widespread. Throughout the country, police were implicated in crimes ranging from killing for hire and kidnaping to drug trafficking and extortion (see Sections 1.a. and 1.b.). There continued to be numerous credible reports of state police officials' involvement in revenge killings and intimidation and killing of witnesses involved in testifying against police officials (see Sections 1.a. and 1.e.). Police also threatened individuals who reported cases of torture (see Section 1.e.).

Human rights groups and the Human Rights Commission of the Chamber of Deputies criticized the alleged sexual abuse of members of indigenous groups by army units stationed in the state of Roraima (see Section 5).

The Sao Paulo Ombudsman received 5,762 complaints about military police from the period 1998–2001. Of these, investigations have begun in 2,034 cases (35 percent), and 1,864 policemen (32 percent) have been punished. The record for investigation of complaints against civil police is much worse. In the period 1998–2001, the Sao Paulo Ombudsman received 5,061 complaints about civil police abuse. Of these, investigations of 531 cases (10 percent) have begun and 364 policemen (7 percent) have been punished. Homicide, disciplinary infractions, poor service, and abuse of authority were the most common complaints against police during the year (see Section 1.a.).

Since it began to function 1997, the Sao Paulo ombudsman has received the greatest number of complaints (in rank order) for disciplinary infractions, embezzlement, abuse of authority, poor service, homicide, poor policing, involvement in drug sales, and threats.

The National Secretariat for Human Rights sponsors training programs in human rights, carried out in cooperation with federal and state entities and national and international organizations, in most states. The Secretariat administers a human rights training program for policemen in cooperation with Amnesty International in 10 states. Human rights groups maintain that the effect of these programs has been limited, at best. However, human rights activists in many states reported willingness of police authorities to address their concerns and to deal with problems brought to their attention.

Respect for human rights and sensitivity to the problems of minorities and the poor are included in police training in Rio de Janeiro. An Institute for Public Security, created in 2000 to reform police organization, recruitment, and training in Rio de Janeiro, has made only limited progress in improving human right performance of the police. A number of states have established ombudsmen (see Section 4).

The International Committee of the Red Cross (ICRC) continued its human rights training courses for high-ranking state military police officers at the Federal Police Academy in Brasilia. A total of 996 military police have been trained since 1999 in basic techniques, including the apprehension and interrogation of criminal suspects without recourse to excessive or unnecessary force. The program has been authorized to proceed until December 2002. The Center for the Study of Violence at the University of Sao Paulo is expected to complete its review of the results by August 2002. At year's end, military police in 20 out of 26 states had incorporated the ICRC program into their general police training program.

The Sao Paulo state's community police training initiative stalled during the year, as the number of officers receiving training remained at roughly 15 percent of Sao Paulo's uniformed police force. Begun in 1997, the program was expected to take 10 years to implement fully. Under the program, high-ranking police officials meet weekly with citizens' consultative groups. The uniformed police also instituted a policy of "recycling" policemen involved in shootings, removing them from patrols for 6 months and offering them counseling.

Prison conditions range from poor to extremely harsh and life threatening. Many penal authorities in those states with the highest prison population did not have the resources to separate minor offenders from adults and petty offenders from violent criminals. Prison riots were frequent occurrences. Discipline is difficult to maintain under such conditions, and prison officials often resorted to inhuman treatment, including torture. Harsh or dangerous prison conditions, official negligence, poor sanitary conditions, abuse by guards, and a lack of medical care led to a number of deaths in prisons (see Section 1.a.).

Severe overcrowding in prisons and police detention centers was prevalent, especially in larger cities. The situation was most critical in the states with the largest prison populations, including Sao Paulo, Rio de Janeiro, Bahia, Rio Grande do Sul, Maranhao, Mato Grosso do Sul, Minas Gerais, Parana, and Pernambuco. A national prison census was completed in November. At year's end, there were approximately 233,000 prisoners in a prison system designed to accommodate 167,000 prisoners; in 2000 there were approximately 213,000 persons incarcerated in facilities designed to accommodate 136,000 prisoners.

Construction of penitentiaries continued. There were plans to build 112 new facilities during the year, with a combined capacity of 32,587 inmates. At year's end, 73 had been completed. The planned construction is not sufficient to alleviate existing overcrowding problems. Problems with overcrowding were most critical in Sao Paulo state, which has approximately 96,000 prisoners but space for only 71,670; the rate of overcrowding is approximately 34 percent. The state opened 33 new facilities during the year, with another 19 scheduled to open in the first 6 months of 2002. In October the state government of Rio de Janeiro, under pressure from state prosecutors, agreed to build prison facilities for 3,000 prisoners to alleviate overcrowding. By year's end, two 500-inmate jails had been constructed, and 64 more spaces were made available in an existing facility.

Amnesty International stated that the prison system was "in crisis" in a 1999 comprehensive report on prisons, which was based on 33 visits to prisons in 10 states. In 1998 Human Rights Watch also issued a comprehensive report based on an extensive review of prison conditions in eight states. Both reports meticulously detailed inhuman conditions and systematic and wide-ranging abuses of human rights throughout the prison system. Among the most serious charges were the commonplace undocumented and uninvestigated deaths of inmates at the hands of authorities or other prisoners, and the routine use of torture against inmates by both guards and police officers.

Torture and mistreatment of prisoners by prison officials also was a serious concern. In October 2000, a public prosecutor charged 20 policemen and 5 penitentiary guards with participating in the torture of 20 prisoners in Sao Paulo's Sorocaba prison. The prisoners and their relatives charge that in July 2000, the prisoners were forced to walk through two rows of police officers (armed with truncheons and sticks) who beat the prisoners as they walked. The prisoners were then divided into groups of five and each group locked into a solitary confinement cell designed to hold one person. Following complaints of torture, the prisoners were transferred to other prisons for their own protection. In order to prosecute, the judge must request the victim's testimony through the time-consuming process of written interrogatories. The case was pending at year's end.

There was no new information concerning the investigation into the allegation of a June 2000 torture incident involving over 100 prisoners in Sao Paulo state's prison facility in the city of Americana. According to Justica Global, a local human rights group, prisoners were forced to pass through a "corridor" formed by military policemen from the Special Operations Unit while the policemen beat the prisoners with iron bars, truncheons, and whips. According to the organization, one prisoner's left arm was broken and another prisoner, Wilson Pereira da Silva, was beaten severely; police then threw a mixture of vinegar, water, and salt on his wounds. The director of the facility was fired shortly after the accusations surfaced.

The case of Otavio dos Santos Filho, who allegedly died as a result of torture at Sao Paulo's Depatri jail in 1999, was filed without resolution.

Poor working conditions for prison guards encourage corruption and aggravate substandard prison conditions. The director of Sao Paulo's Carandiru prison (the largest in the country) told representatives from Amnesty International that many cases of torture and use of excessive force resulted in part from employees' working conditions. An investigation of the more than 1,100 employees of Sao Paulo's prison at the end of 1998 showed that 241 had criminal records themselves. The majority of the charges against the employers were for crimes committed while working at the prison and ranged from drug trafficking and threats to assisting in escapes. The State Secretary of Penitentiary Administration was aware of the guards' criminal pasts and allowed them to continue working. According to an official in Sao Paulo state's School of Penitentiary Administration, the authorities were beginning to investigate guards more aggressively, and fired approximately 150 guards during the first 9 months of the year.

Sao Paulo state prison officials continued to take steps to improve the quality of the guard force. Since 1998 new hires have been required to have a high school diploma and to take human rights courses. Sao Paulo prison authorities also are attempting to improve conditions by building more prisons, by improving training of prison personnel, and by creating committees of community leaders to monitor pris-

on conditions. The Sao Paulo Secretary of Penitentiary Administration has launched new training programs for both directors and workers in penitentiaries, including instruction in human rights, infectious diseases, drug addiction, and ethics.

Prisons do not protect adequately prisoners against violence inflicted by other inmates (see Section 1.a.). For example, on average there are 30 homicides a year in Carandiru prison in Sao Paulo state. Prison gangs dominate the prisons.

In August Sao Paulo police arrested Marcos Puga of Sao Paulo after a warrantless search found three marijuana cigarettes. Puga claimed that the police put a gun to his head, beat him, and sprayed tear gas in his eyes on the way to the police station. While he was in custody, other prisoners failed in an attempt to blow a hole in the jail wall, and during the confusion that followed, the prisoners tortured Puga because of his homosexuality. Puga suffered four knife cuts, burns, a broken nose, and the loss of five teeth and part of an ear. The Secretary of State for Human Rights Gilberto Saboia called on the Sao Paulo authorities to punish the guilty and to indemnify Puga, but there were no reports that such steps had been taken by year's end.

No official count of the number of riots and rebellions was available, but most likely many dozens, if not hundreds, of such events occurred during the year. Minor riots at the end of 2000 continued into the beginning of the year and led to a massive rebellion in mid-February, coordinated by a powerful prison gang (First Capital Command), involving over 25,000 inmates in almost 30 prisons in Sao Paulo state. Prisoners took thousands of family members, guards, and prison officials hostage. One of the worst riots occurred in Carandiru prison, where police, prison guards, or other inmates killed 16 prisoners. Television cameras showed riot police firing at unarmed prisoners from atop a wall; human rights groups accused police of the unprovoked killing of at least two prisoners. Another five prisoners were hanged or decapitated, apparently executed by other prisoners. Following the February riots, the Sao Paulo governor mandated Carandiru's closure. Prisoner transfer began in December and is scheduled to be completed by March 2002.

The authorities charged the director of security and discipline of Andradina Penitentiary in Sao Paulo State with triple homicide in the February asphyxiation deaths of prison gang members; the men were killed while being punished for participation in the riots (see Section 1.a.).

In April in Rio de Janeiro, prisoners killed two other prisoners during a prisoner revolt at the Campos penitentiary. The killers were identified, convicted, and sentenced to additional time in prison. In January a convicted drug trafficker was hanged in his cell at the maximum-security Bangu penitentiary, in a manner that the authorities stated ruled out suicide. An investigation into the killing continued at year's end.

Mass escapes and armed "rescues" of prisoners by gang members were common throughout the country. In one prominent example, 105 high-risk prisoners escaped from Carandiru prison in one night in July through a tunnel dug from outside of the prison. Police succeeded in recapturing only a few of the escapees.

Prisoners also are subjected to extremely unhealthy conditions. Scabies and tuberculosis, diseases not common in the general population, are widespread in Sao Paulo prisons, as are HIV/AIDS infection and leprosy. In December the Ministry of Justice estimated that 10 to 20 percent of the national prison population is HIV positive. Denial of first aid and other medical care sometimes is used as a form of punishment. According to the U.N. Committee on Torture's report, homosexuals and patients with AIDS are discriminated against in prisons and are confined to separate cells.

Overcrowding is an even greater problem in police stations than in penitentiaries. Police stations are meant to be only temporary holding facilities; however, due to often long pretrial delays and overcrowding in state penitentiaries, almost 53,000 of the 229,000 prisoners reside in such local lockups, awaiting transfer to state penitentiaries. Police lockups and other detention facilities typically are run by the state police forces. In May Sao Paulo state representative Emidio de Souza reported on his visit to one district police station that had generated a large number of complaints of torture. The overcrowding there was extremely severe—119 persons were held in a jail built for 16 inmates. Prisoners were confined to cells without ventilation and not allowed regular opportunities to bathe. They reported an unreliable supply of water and being fed spoiled food on occasion. They also claimed to have been beaten with a baseball bat. Many of them had serious medical problems. Mentally ill inmates lived among other prisoners and were given no medical attention. One inmate had feces on his body and infected wounds on his legs and feet. The week before de Souza's visit, one prisoner had been diagnosed with tuberculosis and prison visitation hours had been cancelled because of the risk of contagion. One prisoner who suffered convulsions and another with a broken ankle had been denied

medical care. Scabies and pulmonary disease such as pneumonia and bronchitis were common. De Souza noted that most of these prisoners already had been sentenced and should have been transferred to penitentiaries.

The judiciary's ineffective use of alternative sentencing contributed to the problem of overcrowding. In 2000 the Ministry of Justice inaugurated a National Center for Support of Alternative Sentences to encourage the judiciary to allow convicts sentenced to less than 4 years' incarceration to do community service in place of custody. However, despite recent substantial increases in funding, alternative sentencing remained underutilized. Only 10 states used alternative punishments, and only 3 percent of convicted prisoners received such a sentence.

Sao Paulo prison authorities openly acknowledged that overcrowding has led to abysmal conditions and violent riots in Sao Paulo prisons. Among the prisoners' complaints were overcrowding, the slow parole process, and lack of conjugal visits. Sao Paulo officials have developed the concept of Centers for Resocialization—prisons which house only 210 prisoners and work in conjunction with NGO's to teach prisoners a skill while they are incarcerated. At year's end, nine were functioning and one was scheduled to open in February 2002.

Authorities attempt to hold pretrial detainees separately from convicted prisoners; however, due to prison overcrowding, pretrial detention facilities often are used to house convicted criminals as well.

The states of Rio de Janeiro and Sao Paulo provide separate prison facilities for women, but generally only in houses of detention or actual prisons; in those states there are no facilities that are exclusively female—including inmates, guards, and wardens. Women are held with men in some facilities. Male officers serve in women's prisons, and abuse and extortion of sexual favors are common. In Rio de Janeiro state, there are only two police districts in which women in lockup are held in gender-segregated short-term jail facilities. Women's facilities in Sao Paulo's penitentiary system are even more overcrowded than those for men. Facilities built to accommodate 1,700 female inmates held 2,200 at year's end. The state's prison expansion program does not include provisions for additional space for women.

In April civil police were called in to put down a rebellion that occurred at a prison for women in Sao Paulo City. A representative of a human rights organization claimed to have seen women with severe head wounds. Police reportedly kicked pregnant inmates. There was no investigation.

The situation in Sao Paulo's juvenile detention centers (FEBEM) improved somewhat during the year, although overcrowding, poor conditions, riots, and accusations of torture continued. In April the U.N. Special Rapporteur on Torture testified to seeing iron bars and wooden sticks used to beat FEBEM inmates.

Also in April, the Sao Paulo Chamber of Deputies Commission on Human Rights visited three FEBEM facilities and noted that many juveniles appeared to have been subjected to torture. According to their report, beating with wire and gun butts, electric shocks, and asphyxiation were popular methods of torture. The Commission criticized inadequate medical care, unsanitary conditions, and cells with no natural light in which a minimum of eight juveniles resided.

In May a rebellion occurred at the Tatuape FEBEM facility. As a result, guards beat 78 inmates.

A new president of FEBEM, Saulo Castro de Abreu Filho, was appointed in January. He was the fifth person to hold this office in 15 months. His first actions were to empty the most problematic FEBEM facility, Parelheiros, and follow up on complaints of maltreatment by both FEBEM guards and inmates. Abreu Filho also publicly admitted the existence of torture in FEBEM, and undertook measures to eliminate its use.

According to the Public Prosecutor for Children and Youth, the number of torture complaints against juvenile inmates in Sao Paulo decreased significantly during the year. In 2000 the Public Ministry was investigating 87 cases of torture and mistreatment and considering for investigation another 52 complaints of mistreatment. In the first half of the year, there were 21 new complaints. According to the Public Prosecutor, the use of the two most common forms of torture in FEBEM, "repique" and "recepcao," has decreased. With repique, after attempted escapes or rebellions, employees gather inmates and beat them with iron bars, sticks, and chains. Recepcao occurs when adolescents are transferred to a different facility and must pass through two rows of guards who kick, beat, and scream at them.

The issue of FEBEM inmates held in an "irregular" state was resolved during the year. Some 900 FEBEM juveniles had been held in adult prison facilities, in violation of federal law. In May these youths were transferred to FEBEM facilities holding only adolescents from 12 to 18 years of age. Persistent attempts in the Congress to reduce the age of majority (to as low as 12 years of age) have failed. Construction of new FEBEM facilities continued during the year, although at a slow pace. After

violent riots at the Tatuape complex in November 1999, Sao Paulo Governor Mario Covas significantly increased FEBEM's budget and promised to build 20 new facilities. As of September, seven had been built, but they have failed to resolve overcrowding. The problem has been exacerbated by a significant increase in the number of incarcerated juveniles—from 3,900 to 4,700 in the first 8 months of the year.

In September press coverage highlighted the severe problem with overcrowding in FEBEM with reports about FEBEM's "reception" facility at Bras, where offenders are held while awaiting their initial hearing before a judge. This process should take a maximum of 7 days; however, in practice, it often takes more than a month. This has led to well over 400 juveniles being held in a facility that was built to hold 62. The Public Prosecutor for Children and Youth compared the situation to concentration camps. Inmates sleep three abreast on top of mattresses laid on a concrete floor. They are not allowed to speak or engage in physical activity, and spend the day watching television. Afraid of rebellion, the authorities limit inmates' use of the bathroom. Health concerns became more acute when at least one youth tested positive for tuberculosis.

It is government policy to permit prison visits by independent human rights monitors, and state prison authorities generally observe this policy in practice. The U.N. Special Rapporteur was given full access during his 3-week fact-finding mission in 2000. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to Amnesty International, which reported no significant problems in gaining access to state-run prison facilities.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the Government generally observes this prohibition; however, police continued at times to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority. The authorities generally respect the constitutional provision for a judicial determination of the legality of detention, although many convicted inmates are detained beyond their sentences due to poor record keeping. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period. However, groups that work with street children claim that the police sometimes detain street youths illegally without a judicial order or hold them incommunicado.

Defendants in criminal cases arrested in the act of committing a crime must be charged within 30 days of their arrest, depending on the crime. Other defendants must be charged within 45 days, although this period can be extended. Defendants for all but the most serious crimes have the right to a bail hearing.

Human rights monitors alleged that civil and uniformed police regularly detain persons illegally to extort money or other favors.

During a protest in 1999 by land reform activists over a proposed increase in the toll for a privatized rural road, police in the city of Boituva, Sao Paulo State, arrested six persons for allegedly damaging and stealing from toll booths. Landless movement members claim that the trial produced no evidence to prove the charge against them.

Bail is available for most crimes, and it is used. The Constitution prohibits forced exile, and the Government does not use it.

e. Denial of Fair Public Trial.—The judiciary is an independent branch of government; however, it is inefficient; subject to political and economic influence, especially at the state level; lacks resources; and officials are trained poorly. In many instances, lower-income, less educated citizens make limited use of the appeals process that otherwise might ensure the right to fair trial.

The judicial system, with the Federal Supreme Court at its apex, includes courts of first instance and appeals courts. States organize their own judicial systems but must adhere to the basic principles in the Constitution. Specialized courts deal with police, labor, elections, juveniles, and family matters.

Based on the police investigation that leads to the formal charges, prosecutors prepare an indictment for the review of a judge, who determines if the indictment meets the legal requirements to bring the accused to trial. A judge and jury try persons accused of capital crimes and attempted homicide. A judge tries lesser crimes. Defendants have the right to appeal all convictions to state superior courts. They further have the right to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the Federal superior court to contest whether a decision was inconsistent with the decision of a court in another state or infringes on federal law. All defendants sentenced to 20 years in prison or more have the automatic right to a retrial in the same court.

Special police courts have jurisdiction over state uniformed police (except when charged with homicide); the record of these courts shows that conviction is the exception rather than the rule. Most police accused of crimes are brought before this

court. These courts (which are separate from the courts-martial of the armed forces, except for the final appeals court) are composed of four ranking state uniformed police officials and one civilian judge. With too few judges for the caseload, there are backlogs, and human rights groups note a lack of willingness by police to investigate fellow officers. In 1999 an investigation into Sao Paulo's special courts for uniformed police uncovered 1,107 "missing" and "delayed" cases against uniformed police charged with crimes against civilians, including murder and torture. In 1999 a newspaper that had access to 300 cases under investigation found 100 murder charges among them, some delayed for up to 12 years. Equally long delays allowed many cases of torture and lesser charges to expire due to statutes of limitations. This probe was the closest scrutiny ever of the special police courts and resulted in the authorities bringing criminal charges against two court officials, although the results are not known.

A 1996 law gives civilian courts jurisdiction over cases in which uniformed police officers are accused of homicide (see Section 1.a.). However, except for the most egregious cases, the internal police investigation determines if the homicide was intentional, and the police tribunal decides whether to forward a case to a civilian court for trial. As a result, few cases are referred to the civilian courts. It takes 8 years to reach a definitive decision in the average case. At the appellate court level, a large backlog of cases hinders the court's ability to ensure fair and expeditious trials.

There continued to be numerous credible reports of state police officials' involvement in intimidation and killing of witnesses involved in testifying against police officials (see Sections 1.a. and 1.c.). In January Ednaldo Viera Galdino registered a complaint against three military police in Sao Paulo city. Galdino was in a bar when the policemen entered and ordered him to leave. Galdino, who is hearing impaired, did not hear the order and remained seated; one policeman began to beat and threaten. After filing a complaint, Galdino's family received threats. Two of the policemen involved were identified and relieved of duty.

Defendants are entitled to counsel and must be made fully aware of the charges against them. There is no presumption of innocence. According to the Ministry of Justice, approximately 85 percent of prisoners cannot afford an attorney. In such cases, the court must provide one at public expense; courts are supposed to appoint private attorneys to represent poor defendants when public defenders are unavailable, but often no effective defense is provided. Juries decide only cases of willful crimes against life, including crimes by police; judges try all others.

The right to a fair public trial as provided by law generally is respected in practice, although in some areas, particularly rural areas, the judiciary generally is less capable and more subject to influence. Similarly local police often are less dutiful in investigating evidence, prosecutors are reluctant to initiate proceedings, and judges find reasons to delay when cases involve gunmen hired by landowners to kill squatters or rural union activists (see Section 1.a.).

Low pay, combined with exacting competitive examinations that in some years eliminate as many as 90 percent of the applicants, make it difficult to fill vacancies on the bench. The law requires that a trial be held within a set period of time from the date of the crime. However, due to the backlog, old cases frequently are dismissed unheard. According to a former judge, this practice encourages corrupt judges to delay certain cases purposely, so that they can be dismissed. Defense counsel often drag out cases as long as possible in the hope that an appeals court might render a favorable opinion and because they are paid according to the amount of time that they spend on a case.

According to one observer, courts convict a much higher percentage of Afro-Brazilian defendants than they do whites (see Section 5).

There were no reports of political prisoners, although the MST leaders claim that its members jailed in connection with land disputes are in effect political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for freedom from arbitrary intrusion into the home; however, there were reports that the police conducted searches without a warrant (see Section 1.c.), although there are no reports on how frequently this occurs. Wiretaps authorized by judicial authority are permitted. The law regulating the conditions under which wiretaps may be used appears to strike a fair balance between giving the police an effective law enforcement tool and protecting the civil liberties of citizens.

The inviolability of private correspondence generally is respected; however, newspaper reports beginning in August carried coverage of alleged domestic espionage by military intelligence units against leftwing groups and land reform and human rights activists in the area of Maraba, Para state. Activists in Maraba confirmed

that they were aware of military surveillance. President Cardoso criticized such activities; however, the military called the reports inaccurate and overblown.

No progress was made in the case of mass sterilizations promoted among women of the Pataxo tribe of Bahia by Federal Deputy Dr. Roland Lavigne in exchange for votes during his 1994 electoral campaign (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution prohibits all forms of censorship and provides for freedom of speech and a free press, and the authorities generally respect these rights in practice; however, there were several attacks against journalists during the year.

Privately owned newspapers, magazines, and a growing number of on-line electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting. Most radio and television stations are owned privately; however, the Government has licensing authority, and politicians frequently obtained licenses. The Liberal Party controls a national network of radio and television stations. Current or former congressional representatives, some of whom are or were members of the committee that oversees communications, own many television and radio stations, as well as local newspapers. It is difficult to determine how many media outlets were controlled indirectly by politicians, since concessions often are registered in the names of family members or friends linked to them. In addition, the Government regularly approved transfers of concessions already granted to other individuals with little oversight.

Penalties for libel under the 1967 Press Law include imprisonment, which is considered extreme by judges and rarely is imposed. The National Newspaper Association (ANJ) continued to press for an updated press law, noting that the existing law dates from the time of the military regime and does not establish criteria for calculating maximum fines for libel. The ANJ and newspaper owners throughout the country have complained about judges who have imposed huge fines and jail terms against newspapers for “moral damage” that appear aimed at crippling news organizations. In December Maura Fraga, a journalist of the newspaper *A Gazeta* in Vitoria, Espiritu Santo, was convicted of libel, sentenced to house arrest, and prohibited from leaving the city without judicial authorization and from frequenting bars or consuming alcoholic beverages for 2 years. In signed newspaper columns, Fraga had accused Federal Deputy (and former state governor) Max Mauro of involvement in organized crime and drug trafficking.

In March, President Cardoso signed a decree prohibiting government attorneys from commenting on ongoing cases; however, in May he rescinded the decree following popular criticism.

Complex electoral campaign laws regulate the broadcast media and prescribe complicated arrangements to apportion the free use of commercial radio and television broadcast time granted to political parties during an election campaign. The short periods for rulings and non-appeal provisions of the regulations are designed to enforce discipline and ensure that remedies are applied in a timely manner. Media and free speech advocates generally accept the manner in which the campaign laws are enforced.

Foreign publications are distributed widely; prior review of films, plays, and radio and television programming is used only to determine a suitable viewing age.

The National Federation of Journalists (FENAJ) and the ANJ have documented a number of violent attacks, including killings and threats, against journalists. The August ANJ report, which covered the period August 2000 through July, listed seven cases of physical aggression against journalists (including one case that involved Brazilian journalists in Paraguay). The ANJ report noted that seven journalists have been murdered since 1995 and that none of the crimes have been solved. The ANJ further stated that impunity for crimes committed against journalists and inappropriate and inconsistent application of the Press Law impeded the functioning of a free press.

Several press freedom groups expressed concern over the murder on August 16 of journalist Mario Coelho de Almeida Filho in Rio de Janeiro state. Coelho was killed by a gunman the evening before he was to testify in a criminal defamation lawsuit involving a local politician. No arrest had been made in the case by year's end.

In August a journalist for a leading Brazilian television network received repeated implied death threats after the network ran her series of investigative reports on drug trafficking in Rio de Janeiro's shantytowns. The state police did not respond to her appeals for protection, and she went into hiding before year's end.

In March the Inter-American Press Association (IAPA) announced that it would assist the authorities in the investigation of killings of journalists in the country; however, there is no information on what assistance has been provided.

According to the IAPA, in March 2000, journalist Ricardo Noblat, managing editor of the newspaper *Correio Braziliense* of Brasilia, alleged that two of his sons had been attacked and that he had been receiving anonymous telephone threats since 1998. He stated that these actions constituted political persecution due to his professional activities. In June 2000, the CDDPH gave the Justice Minister a preliminary report on the attacks on Noblat's sons. Although it was only preliminary, the report by the Justice Ministry concluded that the attacks were political. However, no further information was available on any investigation into the attacks.

Federal and state police have begun to monitor the Internet to detect on-line recruitment by sex traffickers (see Section 6.f.); however, the Government does not impose restrictions on the use of the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right to assemble peacefully, and the Government generally respects this right in practice. Permits are not required for outdoor political or labor meetings, and such meetings occur frequently.

Police used excessive force to disperse demonstrators on several occasions during the year, resulting in serious injuries and at least one death (see Sections 1.a. and 1.c.). In July police in the Federal District killed one protester during a demonstration in support of land reform. In April students from the University of Sao Paulo claimed that police had injured about 100 persons while breaking up a demonstration against the Free Trade Area of the Americas. In May Bahia state police entered the campus of the Federal University of Bahia and used tear gas against thousands of protesters who were calling for the removal of Senator (and former Bahia governor) Antonio Carlos Magalhaes, reportedly injuring as many as 30 persons.

MST protests increased during the year, despite the fact that the Government claimed to have invested \$4.1 million (11.2 billion reais) in agrarian reform. Protests in the capital, Brasilia, united large numbers of protesters. Demonstrations in Brasilia were usually concurrent with smaller, local protests and invasions, of between 200 and 5,000 landless activists. Many protests occurred without incident, with some exceptions. In March a total of 16 MST members were injured in a confrontation with military police in Minas Gerais. The confrontation began when members of the MST attempted to break a police blockade, causing the police to respond with tear gas and rubber bullets. The MST's tactic of forcibly invading public buildings exemplified increasing aggressiveness on the part of the movement.

The number of land invasions decreased during the year. According to INCRA (the government agency charged with implementing land reform), there were only 146 invasions by landless militants during the year compared with 226 in 2000, which indicates that the large amount of land that has been distributed by the Federal Government may have contributed to decreasing the activities of the landless movement. Government and NGO claims regarding the numbers of families resettled from 1995 to year's end range from between approximately 405,000 and 586,000 families. The CPT noted that the number of conflicts between landless movement members, landowners, and police increased over the last 2 years; there was a corresponding increase in the number of deaths from 21 in 2000 to 31 in 2001; the Government reports that there were 10 deaths in 2000 and 8 in 2001.

In March Amnesty International called for a renewed investigation into the use of police violence, including rubber bullets and teargas, to disrupt an April 2000 march in protest of ceremonies in Porto Seguro to mark the 500th anniversary of Portuguese arrival (see Section 5). Human rights observers criticized the police for injuring over 30 persons, detaining 141 persons, and limiting free assembly and lawful protests. Those detained were released without charge.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. There is no favored or state religion. All faiths are free to establish places of worship, train clergy, and proselytize, although the Government controls entry into indigenous lands.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—There are no restrictions on movement, except entry into protected indigenous areas, nor are there any restrictions on emigration or return. However, a parent is not allowed to leave the country with children under the age of 18 without the permission of the other parent, whether or not the marriage still is in effect.

A 1997 law provides for asylum and refugee status in accordance with the principles of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967

Protocol. The Government provides first asylum and cooperates with the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There were an estimated 2,700 refugees in the country, mostly from Angola and other African countries, but also including persons from Iran, Bosnia, and Kosovo. In August the National Secretary of Justice announced that the Government would join a U.N. program for the resettlement of refugees, and would accept a group of 100 refugees from Iran, Namibia, and Afghanistan. During the year, a total of 529 persons were granted refugee status, out of a total of approximately 600 requests.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting is secret and mandatory for all literate citizens aged 18 to 70, except for military conscripts who may not vote. It is voluntary for minors from 16 to 18 years of age, for the illiterate, and for those age 70 and over.

In the October 1998 elections, President Fernando Henrique Cardoso won a second term with 53 percent of the vote in the first round. The next national elections are scheduled for October 2002.

The Chamber of Deputies has 513 seats; the Senate has 81 seats. The distribution of seats among the 4 largest political parties in Congress as of October 6 was: Liberal Front Party (PFL)—95 deputies and 19 senators; the PSDB, the party of President Cardoso—94 deputies and 19 senators; Brazilian Democratic Movement Party (PMDB)—89 deputies and 23 senators; and the Worker's Party (PT)—59 deputies and 7 senators.

On September 5, Congress passed a constitutional amendment limiting the president's power to legislate by "provisional measure (MP)." The new limits allow the president to issue MP's only valid for 60 days (renewable once) and force the Congress to vote on making MP's laws within 45 days or face a blocked agenda. The President no longer may issue MP's that address nationality, citizenship, political rights, legal due process, or the judicial branch, or that change the Constitution or the budget (except under extraordinary circumstances).

Women have full political rights under the Constitution and are increasingly active in politics and government; however, the percentage of women in politics and government does not correspond to their percentage of the population. Cultural, institutional, and financial barriers continue to limit women's participation in political life. The number of female candidates for office in the 1998 national elections roughly doubled, compared with the number in 1994, according to statistics released by the Supreme Electoral Court (TSE). Women constituted approximately 12 percent of the total candidates. However, their representation in the national Congress decreased from 7.6 percent to 6.1 percent after the 1998 elections; 29 women were elected to the 513-seat Chamber of Deputies, and 5 to the 81-seat Senate. In August 2000, the TSE reported that for the first time, a majority of registered voters were female (50.45 percent). The TSE also reported that there were over 70,000 female candidates for the nationwide municipal elections in 2000. At 18.3 percent of the total number of candidates, this was a 40 percent increase from the last municipal elections in 1996. There are no female members of Cabinet. In December 2000, the first woman took her seat on the country's highest court, the Supreme Federal Tribunal.

Diverse ethnic and racial groups, including indigenous people, are free to participate politically; however, the percentage of these groups in government and politics does not correspond to their percentages in the general population.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of local and national human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Federal officials usually are cooperative and responsive to their views. Due to insufficient resources, federal and state officials in many cases actively solicit the aid and cooperation of NGO's in addressing human rights problems. However, on occasion human rights monitors are threatened and harassed for their efforts to identify and take action against human rights abusers, especially members of the state police forces. In December President Cardoso stated that he welcomed visits by international human rights groups to conduct investigations.

In September 2000, Jose Eduardo do Bernardes da Silva, a member of Amnesty International, and Roberto de Jesus, president of the Gay, Lesbian, and Bisexual Pride Association, both received bombs in the mail with swastikas and the word "revenge" printed on the package. Shortly thereafter da Silva fled to Spain out of fear of skinhead groups supposedly responsible for the incidents. Sao Paulo police claimed to have discovered evidence that da Silva planted these bombs. The Government has made a request to the Government of Spain for da Silva's extradition, reportedly citing charges of attempted homicide, falsifying a crime, and fraud. Henri des Roziers, a Dominican monk, attorney, and human rights activist in Xinguara, Para state, continued to receive death threats during the year for his assistance to victims of violence in the region and his direct involvement in criticizing cases of torture, police abuse, and forced labor.

In May 2000, U.N. High Commissioner for Human Rights Mary Robinson visited the country and met with a full range of NGO's as well as government officials. Robinson declared that impunity from prosecution was the greatest human rights problem, linking it to killings, torture, racial and sexual discrimination, and the exploitation of children. She stated that the U.N. might open an investigation into the repression of indigenous rights during an April 2000 commemoration of the 500th anniversary of the arrival of Europeans to the country (see Sections 2.b and 5). However, as of September, no such investigation by the U.N. had been opened.

The Justice Ministry's National Secretariat of Human Rights oversees implementation of a 1996 action plan to address human rights abuses. The Secretariat also administers or sponsors programs to reduce violence among the poor, to train police officials in human rights practices, and to combat discrimination against blacks, women, children, indigenous people, the elderly, and the disabled. In May 2000, the Government appointed Gilbert Saboia, former ambassador to Sweden, as the new Secretary for Human Rights. In October the Government established a Federal Commission Against Torture (see Section 1.c.).

A number of states have ombudsmen (see Sections 1.a. and 1.c.). In September the ombudsman in Rio de Janeiro resigned in protest over violations of his office's independence. The State Secretary of Public Security fired the ombudsman's uniformed police advisor after a disagreement (even though the ombudsman's office is theoretically independent of the Secretary); the ombudsman quit and the Rio state governor promptly named a replacement.

In December 2000, the Government released the second National Report on Human Rights, which provides a comprehensive account of the human rights situation in each state. The report also provides information on health, education, public security, and labor conditions and a list of human rights monitors and advocates in each state.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits discrimination on the basis of sex, race, religion, or nationality; however, discrimination against women, blacks, and indigenous people continued to be a problem. The International Labor Organization (ILO) notes that important differences in wages affect women and blacks, particularly in rural areas. A 1997 law provides prison penalties and fines for racist acts, including promulgation of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimination based on sex, religion, age, or ethnic origin. Several persons have been charged with racism since the law's enactment, mostly for the use of racial slurs. There have been no known convictions under this law.

There continued to be reports of violence against homosexuals, although it was not clear always that the victim's sexual orientation was the reason for the attack. The Gay Group of Bahia (GGB), the country's best known homosexual rights organization, and Amnesty International have documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Sao Paulo, Salvador, Belo Horizonte, and Brasilia. In some cases, these gangs included police officers (see Section 1.c.).

A study by the GGB reported that 123 gay, lesbian, and transgender persons were murdered during the year, compared with 130 in 2000. The report claimed that 1,960 homosexual persons had been murdered from 1980 to 2000. However, claims that violence against homosexuals is increasing cannot be confirmed, because the motives for the crimes are not always clear. Information from the GGB and other homosexual rights groups indicates that transvestite prostitutes, the most visible homosexual group, are at a greater risk of violence than other homosexuals; there have been reports of police abuse of transvestites (see Section 1.c.). The GGB cited two cases of such abuse in the state of Bahia during the year.

A prominent example of violence directed at homosexuals occurred in Sao Paulo in February 2000, when Edson Neris da Silva was beaten to death by a skinhead gang after having been seen holding hands with another man. Eighteen persons were accused in the crime. In February a court sentenced two alleged gang members to 21 years in prison, while a third suspect received a lighter sentence. The others had not yet been tried at year's end.

In September 2000, Jose Eduardo do Bernardes da Silva, a member of Amnesty International, and Roberto de Jesus, president of the Gay, Lesbian, and Bisexual Pride Association, both received bombs in the mail with swastikas and the word "revenge" printed on the package. However, the Sao Paulo police claimed to have discovered evidence that da Silva may have been responsible for the attempts (see Section 4).

The state of Rio de Janeiro passed legislation in 2000 that went into effect in November 2001 banning discrimination against homosexuals, with fines up to \$3,700 (10,000 reais).

The Secretariat of State Security of Rio de Janeiro state, in partnership with NGO's, continued to operate a hot line to receive complaints of violence or other crimes against homosexuals. The Secretariat also continued to operate a hot line for complaints of prejudice, discrimination, or other crimes based on race, ethnicity, color, religion, or national origin. The offices in police headquarters where both hot lines are located also offered professional counseling to victims of such offenses.

A state law approved in Rio de Janeiro in May prohibits discrimination against carriers of AIDS by schools, stores, and clubs, with fines for violators up to \$18,500 (50,000 reais).

In Sao Paulo in October, the country's first Homosexual Defender office began to function, funded in part by a grant from the federal Ministry of Justice. The entity gives free legal assistance to homosexuals suffering from discrimination or who are victims of verbal or physical hate crimes.

Women.—The most pervasive violations of women's rights involved sexual and domestic violence, which are both widespread and vastly underreported. There is a high incidence of physical abuse of women. Most major cities and towns have established special police offices to deal with crimes of domestic or sexual violence against women; there are over 300 such offices. However, reporting crimes and receiving help continue to be a problem for women living in remote areas who sometimes must travel great distances to the nearest special precinct. For example, the large but sparsely populated states of Acre and Roraima each has only one such precinct.

The numbers of reported crimes against women continued to increase. For example, in the state of Sao Paulo, there were 310,058 complaints of violence against women in 2000, compared with 263,702 in 1999. This included 2,403 reported cases of rape or attempted rape in 2000, compared with 2,386 for 1999. In the Federal District, the number of reported cases of rape declined slightly to 371 during 2000, compared with 416 cases in 1999. The annual number of cases of harmful physical assault against women reported to the police in the state of Rio de Janeiro nearly doubled from 1991 to 1999, to 34,831, and the number of rapes reported increased from 952 to 1,455. Both state authorities and women's rights activists agree that a large number of rapes go unreported. According to a 1998 study of two middle-class neighborhoods in Rio de Janeiro, only 10 percent of women who had suffered violent attacks reported them to the police.

In April the Inter-American Commission on Human Rights (IACHR) issued its first decision on the issue of violence against women in a case brought by Maria da Penha Maia Fernandes, a woman who in 1983 repeatedly was beaten by her husband and left paraplegic. The IACHR recommended that the perpetrator be prosecuted and the victim compensated, and that the Government "continue and expand the reform process . . . to end the condoning by the State of domestic violence against women."

In March state authorities in Rio de Janeiro responded to the rise in reported violence against women by opening an integrated center for support to women victims of violence or discrimination. The center can provide psychological and legal assistance to 130 women per month and has a hot line to encourage women to register complaints. Women who consult the center about domestic violence can stay at women's shelters run by the city of Rio de Janeiro and a smaller town. The rising demand of women and their children to stay in the shelters exceeds capacity, and the Rio state government began construction of additional facilities during the year.

Each state Secretariat for Public Security runs "women's stations" (*delegacias da mulher*). However, the quality and availability of services provided varies widely, especially in isolated areas. The stations are intended to provide the following services for victims of domestic violence: Psychological counseling; a "shelter home" for victims of extremely serious abuses who have no place to go; hospital treatment for

rape victims, including treatment for HIV and other sexually transmitted diseases; and initiation of criminal cases by investigating and forwarding evidence to the courts. However, a Ministry of Justice report released in November revealed that many of the women's stations fell far short of standards. For example, 20 percent lacked a conventional telephone line, 53 percent lacked police officers trained in dealing with violence against women, and 77 percent did not have an officer on duty 24 hours a day.

The penalties for rape vary from 8 to 10 years in prison. An offender accused of domestic violence in a case that does not involve a serious offense and carries penalties of less than 1 year's imprisonment may receive alternative sentencing with no jail term, according to the Latin American and Caribbean Committee for the Defense of Women's Rights. A national study of rape cases carried out by a group of Sao Paulo academics indicated that family members committed roughly 70 percent of rapes within their own homes.

Spousal rape is illegal. Men who commit crimes against women, including sexual assault and murder, are unlikely to be brought to trial. A 1999 study by an academic at the Catholic Pontifical University of Sao Paulo indicates that 70 percent of criminal complaints regarding domestic violence against women are suspended without a conclusion. Only 2 percent of criminal complaints of violence against women lead to convictions. In 1998 the National Movement for Human Rights (NMHR) reported that female murder victims were 30 times more likely to have been killed by current or former husbands or lovers than by others, a rate that the NMHR believes still continues.

Adult prostitution is not illegal; however, various associated activities, such as running an establishment of prostitution, are illegal.

Trafficking in women for the purpose of prostitution is a serious problem (see Section 6.f.).

Sexual harassment is a problem and in April it became a criminal offense, punishable by 1 to 2 years in jail. In addition to its application in the workplace, the law encompasses sexual advances between family members, individuals in educational institutions, and service providers or clients. In the workplace, it applies only in hierarchical situations, where the harasser is of greater rank or position than the victim.

The Constitution prohibits discrimination based on sex in employment or pay and provides for 120 days of paid maternity leave. However, the provision against wage discrimination rarely is enforced. According to statistics released in 1998 by the International Confederation of Independent Unions, nationwide women are paid, on average, 44 percent less than men. A May 2000 study by the Brazilian Institute of Geography and Statistics (IGBE) indicated that in the country's six largest metropolitan areas, the median income for women was 67 percent that for men. According to government statistics released in 1998, women with a high-school education or less earn, on average, 63 percent of the salaries earned by men with the same level of education. Afro-Brazilian women earned on average 26 percent of a white male's salary. A 1998 study by a sociologist showed that women who started working in positions in which they earned twice the minimum wage advanced in pay after 10 years to a wage of seven times the minimum wage. Men starting in the same positions earned 2.6 times the minimum wage and advanced to a wage of 10.9 times the minimum wage after 10 years. A Ministry of Labor survey reported that the average starting salary for high-school-educated women in Sao Paulo was one-third less than the average starting salary for high school educated men. According to the Ministry of Labor and Employment (MLE), Centers for the Prevention of Workplace Discrimination have been established in 16 states. These centers, which are housed in regional bureaus of the Ministry, promote programs to end discrimination in the workplace and cultivate partnerships with other organizations that combat discrimination. The centers also serve as clearinghouses for allegations of discrimination.

In response to the Maternity Leave Law, some employers seek sterilization certificates from female job applicants or try to avoid hiring women of childbearing age. A 1995 law prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates. Employers who violate the law are subject to a jail term ranging from 1 to 2 years, while the company must pay a fine equal to 10 times the salary of its highest-paid employee. At year's end, there was no information on violations of this law.

Children.—Millions of children continue to suffer from the poverty afflicting their families, must work to survive, and fail to get an education. Schooling is free and compulsory between the ages of 7 and 14 and is available in all parts of the country, although not all children attend school regularly. The rate of school enrollment of children aged 7 to 14 increased from 89.1 percent in 1994 to 95.5 percent in 1999. Rates of repetition decreased from 30.2 percent in 1995 to 23.4 percent in 1997.

However, repetition rates and the poor quality of public schools continue to be a problem. Fully 40 percent of first-graders repeat the year, and in a number of states first-graders are more likely to fail than to pass. Even with increased enrollment, there are still 1.1 million children between the ages of 7 and 14 who do not attend school. Girls and boys attend school in roughly comparable numbers; current elementary enrollment is 51 percent boys, 49 percent girls.

In September 2000, UNICEF reported that nearly 100,000 children die each year before their first birthday, almost half during the perinatal period. While the national infant mortality rate declined from 50.8 in 1989 to 34 per 1,000 live births in 1999, in some states, such as Alagoas, it reached 72 per 1,000. Some municipalities have a rate of 110 per 1,000.

According to a 2001 UNICEF report based on 1999 data, over 20 million children and adolescents, or almost 35 percent of all children, live in poverty. Nationwide, the Inter-American Development Bank estimates that some 30 million children live below the poverty line and increasingly come from households headed by women.

Child abuse is a significant problem, although the 2001 UNICEF report notes that useful nationwide statistics on child abuse are nonexistent. A CEDECA study of reported cases of violence in Belem (published during the year) showed that complaints of such abuse increased from 2,277 in 1990 to 6,203 in 1999.

Sexual exploitation of children and child prostitution remained a significant problem throughout the country. From February 1997 to August 2001, a Rio de Janeiro-based NGO hot line ABRAPIA received 2,118 complaints of sexual exploitation of children and adolescents nationwide, including 333 in Rio de Janeiro city and 156 in Sao Paulo city. A 1999 study by the Reference Center on Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, indicated that patterns of sexual exploitation of children correspond to the distinct economic and social profile of the country's region. In the northern Amazonian region, sexual exploitation of children centered around brothels that cater to mining settlements. In the large urban centers, children, principally girls, who leave home to escape abuse or sexual exploitation often prostituted themselves on the streets in order to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent, and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruit children and even traffic them outside the country (see Section 6.f.). Child prostitution also is developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. In port cities, crews from cargo vessels are a primary clientele. The report noted that although trafficking developed in part to meet the demands of foreigners, the local population sustains it. In March 2000, the ILO reported that observers have cited over 3,000 girls who were subject to debt servitude and forced into prostitution in Rondonia state.

Legislation enacted in June 2000 lengthened the maximum sentence to 10 years in prison for persons who manage brothels that exploit child prostitutes. In July 2000, the Government announced the first national pilot program to combat child prostitution, which received a budget during the year of \$556,000 (1 million reais). In December the Ministry of Justice announced a new program to combat trafficking in persons for sexual exploitation in cooperation with the UNDCP—the National Plan to Combat Sexual Exploitation of Children; trafficking is a priority area in the Plan (see Section 6.f.). The program is expected to include research, an informational campaign, and eventual support for an assistance network for victims of trafficking.

The CECRIA report stated that government efforts to combat sexual exploitation of children need to be better tailored and coordinated. It cited 40 separate programs operated by national and international NGO's, some in partnership with Government entities, but notes that most of the programs faced shortfalls in resources and personnel. In association with the Ministry of Justice, the NGO ABRAPIA has since 1997 operated a telephone hot line to register complaints of sexual abuse against children and adolescents. ABRAPIA also administers the "SOS-child" program in Rio de Janeiro state that registers complaints of domestic abuse against children and provides medical and social assistance. In 2000 the Government instituted the Sentinel Program to combat the sexual exploitation of minors. As part of the program, 200 centers are expected to be constructed, in capital cities and areas where sexual exploitation is prevalent, to assist victims of sexual abuse and exploitation. The multiprofessional staff at the centers help victims claim their rights and remove them from abusive situations. When necessary, staff also placed victims in foster homes. As of September, Sentinel included 40 centers throughout the country.

At year's end, trials had not taken place in the 1999 case of a child prostitution ring in Maranhao that involved police, judicial authorities, and elected officials.

Charges were brought against the owner of a bar, a local judge, a high-ranking police official, and two attorneys.

Trafficking in children for the purpose of prostitution is a serious problem (see Section 6.f.).

Child labor is a serious problem (see Section 6.d.).

There are no reliable figures on the number of street children. Some are homeless, but the majority returned home at night. CEDECA in Belem, in the state of Para, reported that in 1998 a total of 2,328 youths under the age of 18, or 0.5 percent of the youth population, spent their days in the streets. CEDECA estimated that 97 of those youths lived permanently in the streets. In 2000 a study in the city of Sao Paulo found 609 children living permanently on the street; a much greater number of children spend their days on the streets, but have families with whom they spend the night.

The city of Rio de Janeiro, in cooperation with NGO's, has provided 41 shelters and group homes (run by the NGO's) for up to 2,501 homeless children and adolescents, but some children appear to prefer the freedom and drugs that street life offers. Drug use, particularly glue sniffing and crack, is increasingly prevalent among street children. NGO's report that extreme poverty at home or sexual abuse by fathers and stepfathers are the principal reasons that many children choose to live in the streets. A study by the IGBE reported that 47 percent of Sao Paulo street children come from families that earn less than \$200 (540 reais) per month. Police killings of street children continued.

In December U.N. High Commissioner for Human Rights Mary Robinson stated that police violence against street children is one of the U.N.'s principal concerns. She specifically expressed concern about the kidnaping of street children for adoption and sexual abuse.

Over the past 10 years, there have been 21 murders in Maranhao State of boys between the ages of 9 and 13; all were from very poor families, and many bore signs of sexual assault. In January 2000, Justica Global and the Macros Passerini Defense Fund filed a complaint with the IACHR accusing the state government and the federal authorities of failing to investigate the crimes; in November the IACHR gave the Government 2 months to investigate and stop the killings. There were no further developments at year's end.

Youth are both victims and perpetrators of violence. Of all deaths of 15- to 19-year-olds, 72 percent are due to causes such as homicide, suicide, and traffic accidents, which reduces by at least 3 years the average life expectancy of men. Approximately 85 percent were victims of commercial sexual exploitation and ranged from 12 to 17 years of age. Homicide is the leading cause of death for children aged 10 to 14, and only 1.9 percent of murderers are serving prison sentences.

A 1991 statute called for the creation of municipal commissions for children's rights; however, a Justice Ministry study released during the year found that only slightly over half of municipalities studied had created these commissions.

The News Agency for Children's Rights closely tracks stories in the media, publishes studies, and gives awards to media outlets that effectively cover child welfare issues. UNICEF also works in cooperation with the media organization Rede Globo to coordinate the Child Hope campaign; in 2000 the campaign raised \$2.2 million (5.5 million reais) to invest in children's programs.

Persons with Disabilities.—The Constitution contains several provisions for persons with disabilities, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation. However, groups that work with persons with disabilities report that state governments failed to meet the legally mandated targets for educational opportunities and work placement. A 1991 law stipulates that all businesses with over 200 employees must reserve 2 percent of their vacancies for persons with disabilities. In 1999 labor officials in the Federal District launched an information campaign to encourage firms to comply with the law and warned that noncomplying firms could be fined; the campaign remains ongoing. The Rio de Janeiro state government's employment bank for persons with physical, auditory, and visual handicaps placed 413 of 1,093 handicapped job applicants in the first 9 months of the year. At least two NGO's in the state of Rio de Janeiro also offered job placement services for handicapped persons during the year.

The National Human Rights Secretariat sponsored a "City for Everyone" program in cooperation with municipal governments and national and international NGO's that focused on providing better access for the disabled to public areas and public transport. There has been little progress nationwide on eliminating architectural barriers, but in December the city of Rio de Janeiro passed a law requiring multi-family condominiums to make alterations ensuring access to handicapped residents. In the city of Rio de Janeiro, the disabled have little or no access to buses (the main public transportation), subway, phone booths, and many other public facilities. In

1999 Rio de Janeiro state mandated that bus companies must make a specific number of buses on certain routes accessible to wheelchair users within 3 months. However, according to the Association of Physically Handicapped Persons, there are no buses in the city adapted for wheelchairs. The city of Niteroi put in service 10 vans specifically for the use of persons with disabilities, but the supply of this service lagged behind the rising demand. However, during the year, the Rio de Janeiro city government began requiring that bus companies provide free passes to persons with disabilities. The state government also created interagency committees to consult with NGO's on how to provide more access for persons with disabilities to buildings, employment opportunities, and competitive sports. An NGO in Niteroi began construction of a sports complex for the disabled. To assist visually impaired persons, some private firms have implemented Braille instructions for shopping and placing orders.

The country has made significant advances in the last few years in expanding the availability of special instruction for children with disabilities. In 1997 only 43 percent of school districts offered special education programs, while by 1999 the percentage offering such programs had increased to 59 percent. However, the availability of such programs varied greatly by region. In the Northeast, only 37 percent of school districts had such programs, while they were available in 81 percent of school districts in Brazil's southernmost three states.

There were over 276,000 mental patients in hospitals in 1999. Cases of nondangerous patients spending their entire lives in institutions are common. The Government paid hospitals \$12 (28 reais) per day for each patient; mental patients are relatively inexpensive to care for, since they receive little or no therapy or medication) and so asylums resisted attempts to restrict hospital stays or develop outpatient services. In June 2000, the Chamber of Deputies' Human Rights Commission released the report of its investigation into the conditions of mental hospitals and asylums. The report cited many examples of understaffed and poorly administered hospitals, substandard living conditions for many patients, and severely overcrowded and dirty facilities. On April 6, President Cardoso signed into law what is essentially a patients' bill of rights, which for the first time establishes clear criteria for commitment into mental institutions and gives the Public Minister (an independent watchdog agency) an opportunity to review each case of involuntary or compulsory commitment.

Indigenous People.—The Constitution grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, the Government has fallen short of securing these rights for indigenous people in practice. The Government estimates that over half live in poverty in communities whose traditional ways of life are threatened on a variety of fronts.

In March the Brazilian Social-Economic Institute (ISA) released a major study of the indigenous people in the country. The study found that, during 2000, the indigenous population grew by 3.5 percent, to a total of approximately 350,000 persons, spread among 216 "nations." At the beginning of the 20th century, the population was approximately one-third its present size, and scholars have estimated that about 1,000 indigenous "nations," comprising 3 to 4 million persons, existed at the time of discovery by the Europeans. However, the report noted many problems faced by the indigenous, including disease and poor health care, loss of native culture, and recurring trespasses and illegal mining and extraction activities on indigenous lands. Road construction and deforestation are also threats. The report also noted that, in the 500 years since discovery, 85 percent of native languages had become extinct.

Indigenous leaders and activists complain that indigenous people have only limited participation in decisions taken by the Government affecting their land, cultures, traditions, and allocation of national resources. They also criticize the Government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders. Illegal mining, logging, and ranching are serious problems on indigenous land.

The National Indian Foundation is responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI; it is organized into 52 regions with directors appointed directly by the FUNAI president.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. By year's end, the Government had completed demarcation of roughly 87 percent of the total area of recognized indigenous territory. During the year, the Government demarcated 33 more areas. Of the 586 recognized indigenous areas, 327 have reached the final registration stage, and 135 remain to be demarcated legally. Identified indigenous territory comprises 12 percent of the national territory.

The Constitution provides indigenous people with the exclusive use of the soil, waters, and minerals on indigenous lands, subject to congressional authorization. In granting such authorization, the Constitution stipulates that the views of the affected communities must be considered and that the communities also must "participate" in the benefits gained from such use. However, legislation regulating mining on indigenous lands pending before the Congress since 1995 has never been passed.

In December the federal attorney's office filed a statement supporting the restoration of demarcated lands of the Caramuru-Catarina Paraguacu reserve to the Pataxo Ha-Ha-Hae tribe. The lands are the subject of a civil action by private landowners. However, no trial date had been set by year's end.

Many indigenous lands are used illegally by nonindigenous persons for mining, logging, and agriculture. Nonindigenous invaders destroy the environment and wildlife, spread disease, and provoke violent confrontations. FUNAI admits that it does not have the necessary resources to protect indigenous lands from encroachment. FUNAI depends on the Federal Police, an understaffed and poorly equipped agency, for law enforcement on indigenous lands.

FUNAI also has been unable to provide mandated health care and other basic services. Hoping to improve the level of health care provided to indigenous people, in 1999 the Government transferred that responsibility from FUNAI to the Ministry of Health. According to health workers' unions, poor working conditions and lack of resources from the Government make it very difficult for health workers to travel into indigenous areas to provide sufficient medical care. Due partly to the Government's failure to provide adequate medical care as required by law, indigenous people have suffered epidemics of malaria, measles, and tuberculosis. Preliminary information indicates that there have been significant advances in indigenous health since the Ministry of Health's National Health Foundation (FUNASA) became involved in providing health care to indigenous populations. For example, among Yanomami, the incidence of registered cases of malaria fell from 8.3 percent in January 2000 to 0.3 percent in September 2001. Infant mortality among Yanomami also appears to have fallen significantly, although it remains higher than in the population at large.

Human rights groups and the Human Rights Commission of the Chamber of Deputies criticized the alleged sexual abuse of members of indigenous groups by soldiers in army units stationed in the state of Roraima. The Minister of Defense denied the allegations, stating that any sexual relations that took place were consensual in nature, and usually involved soldiers of indigenous origin.

No progress was made in the case of mass sterilizations promoted among women of the Pataxo tribe of Bahia by Federal Deputy Dr. Roland Lavigne in exchange for votes during his 1994 electoral campaign. Women were reluctant to have children because of the high level of poverty in the community, and campaign workers allegedly convinced them that sterilization was the only effective form of birth control. Pataxo leaders claim that the sterilizations constituted genocide intended to free their land for farmers who illegally occupy the Pataxo reserve. Legal action initiated against Lavigne still was pending at year's end.

On July 25, Amnesty International released a report entitled "Racism and the Administration of Justice," which reported brutality against indigenous people. The report cited the 1998 killing of indigenous activist Francisco de Assis Araujo in Pernambuco, attacks in 2000 against the Macuxi and Wapixana groups, and the disruption in 2000 by the military police of the protest against the country's 500th anniversary celebration (see Section 2.b.).

In April 2000, during the celebration of the 500th anniversary of the arrival of the Portuguese in Porto Seguro (Bahia), police used rubber bullets and tear gas to block 2,000 indigenous marchers from entering the city (see Section 2.b.). Indigenous leaders still were seeking damages in civil court as of year's end. In May 2000, U.N. High Commissioner for Human Rights Mary Robinson raised the police's actions with President Cardoso (see Section 4). The President denied any use of excessive force, and in July 2000, a Federal Police investigation reached the same conclusion. However, the Federal Public Prosecutor has challenged these findings. Amnesty International also called for an investigation into the incident. FUNAI president Carlos Frederico Mares resigned in protest over the treatment of indigenous people during the event.

In September 2000, CIMI reported that FUNAI was going to press charges against Jordao, Acre city councilman Auton Farias, and two others for the murder of an indigenous person in Tarauaca, Acre. However, no additional information was available about the case and it appears to be inactive.

Religious Minorities.—Leaders in the Jewish community expressed concern over the continued appearance of anti-Semitic material on Internet websites compiled by neo-Nazi and "skinhead" groups. Jewish community activists report that although

neo-Nazi groups have issued threats against at least one prominent leader, there have been no reports of any violent incidents directed at Jews.

In September 2000, a neo-Nazi group sent letters to two prominent Sao Paulo human rights commission members, Renato Simoes and Italo Cardoso, threatening to "exterminate" gays, Jews, blacks, and nordestinos (people from the impoverished Northeast), as well as those seeking to protect their rights. The letter said that on or around the country's September 7 Independence Day the group intended to target a number of human rights organizations, including Tortura Nunca Mais (No More Torture), Action by Christians against Torture, Amnesty International, and gay and lesbian groups.

National/Racial/Ethnic Minorities.—Although the law prohibits racial discrimination, darker-skinned citizens say that they frequently encounter discrimination, and the U.N. Special Rapporteur on Torture noted that the majority of the victims of torture are of Afro-Brazilian descent (see Section 1.c.). ISER research noted a disproportionately higher rate of police killings of Afro-Brazilians (see Section 1.a.). Persons of color are five times more likely to be shot or killed in the course of a law enforcement action than are persons who are perceived to be white.

The law specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. A 1997 amendment to this law added prohibitions against, and jail terms for, the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets. The media reported arrests of several persons charged with using racial slurs during the year. For example, in April in Rio de Janeiro actress Vera Oliveira Gimenez was accused by Robson Fernandes Marcelo, a doorman in her apartment building, of having used a racial slur in speaking with him. At year's end, a court had scheduled a hearing for February 2002 on a possible criminal charge of racism under the 1997 law.

The state government of Rio de Janeiro created a hot line for reporting complaints of racism in July 2000. By the end of 2000, it had received 604 complaints, of which about 15 percent were referred for legal action. During the year, the hot line received 1,305 complaints, of which 58 (4.4 percent) resulted in actions in the justice system.

A new study of 22 states, done at Sao Paulo's Pontifical Catholic University, showed that between 1995 and 2000, the authorities received 1,050 discrimination complaints. Of these, 651 were investigated and 394 were brought to trial. However, there were no convictions. The author of the study noted that this reflects the difficulty of proving that an act of racism occurred. It also demonstrates a lack of knowledge of the existing antiracism statutes on the part of lawmakers, public attorneys, judges, and lawyers. In one publicized case in September, the Supreme Court overturned the conviction of a journalist who wrote that Afro-Brazilians are a "sub-race" and "not part of civilized society."

Citizens of African descent say that they frequently encounter discrimination. According to statistics from the Institute of Applied Statistics (IPEA), citizens of African descent represent 60 percent of the poorest segment of society and 7 percent of the national income. Studies also have shown that rates of police torture, child labor, and illiteracy are higher among citizens of African descent than among whites (see Section 1.c. and 6.d.). The life expectancy of Afro-Brazilians is 64 years, while that of whites is 70 years. In 1997 the infant mortality rate of Afro-Brazilians was 62 per 1,000, compared with 37 per 1,000 for whites.

Education plays a significant role in perpetuating these disparities. Approximately 60 percent of Afro-Brazilians in the lowest social class have less than 3 years of education, compared with 37 percent of whites. According to a 1999 study by IPEA, the illiteracy rate among Afro-Brazilians was 19.8 percent, compared with 8.3 percent for whites and the national average of 13.3 percent. Generally, whites have two times more schooling than Afro-Brazilians. Afro-Brazilians historically have not been admitted to universities in large numbers due to economic pressures and the low quality of public education. While an estimated 44.6 percent of the population is of African descent, only 5 percent of university students are Afro-Brazilian, and only 2.2 percent of university graduates are Afro-Brazilian.

Some educational institutions and official entities have instituted programs to narrow the educational gap between blacks and whites. Since 1992 the Steve Biko Institute in the city of Salvador has provided extra classes that enabled 200 Afro-Brazilian students to gain admission to universities in Bahia State; during the year, 180 students were enrolled in the classes paying tuition of \$35 (80 reais) per month. At least three nongovernmental projects help Afro-Brazilians pass university entrance exams in Rio de Janeiro. In August the Rio de Janeiro state governor decreed that 50 percent of state university admissions would be reserved for public high school graduates, most of whom are Afro-Brazilian. In October the state passed a

law establishing a quota of 40 percent of state university admissions for “black” or “brown” students; at year’s end, the law had not yet been implemented.

In Sao Paulo human rights activists continued to express concern about discrimination against blacks and poor persons from the Northeast by neo-Nazi groups in the South. Some of these groups maintain Web sites that espouse violence. There were no known reported investigations of these groups underway at year’s end.

In September 2000, two members of the Sao Paulo State Assembly’s Human Rights Committee received threatening letters stating that the group which identifies itself as “raca pura” (pure race) is “fighting for an end to homosexuals, blacks, and northeasterners.” Sao Paulo’s State Secretary of Security ordered an investigation into both incidents. No information was available on the status of the investigations.

According to professor Sergio Adorno of the University of Sao Paulo’s Nucleus for the Study of Violence, courts convict a much higher percentage of black defendants than they do whites. Adorno analyzed 500 criminal cases judged in Sao Paulo courts in 1990 and found that 60 percent of whites able to afford their own lawyers were acquitted, while only 27 percent of blacks who hired lawyers were found not guilty.

Conditions are even more difficult for Afro-Brazilian women. According to a study of Sao Paulo’s Foundation for the State System of Data Analysis (SEADE), Afro-Brazilian women make up 31.6 percent of the female work force and 39 percent of the total number of unemployed females. A researcher from IPEA also affirmed that women of African descent suffer more discrimination in the work place, citing statistics that, nationwide, white men have an average monthly salary of \$269 (726 reais), white women \$212 (573 reais), Afro-Brazilian men \$125 (337 reais), and Afro-Brazilian women \$107 (289 reais). According to the same study, white men have an unemployment rate of 7.3 percent, black men 11 percent, white women 12.5 percent, and black women 16.5 percent.

In July Amnesty International released a report entitled “Racism and the Administration of Justice,” which reported unequal treatment of Afro-Brazilians in the areas of health, education, and law enforcement, as well as brutality against indigenous people. During the year, the public debate over the best means for addressing the problem, such as affirmative action, intensified between the Government, academics, NGO’s, community leaders, and journalists.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide for union representation of all workers (except members of the military, the uniformed police, and firemen) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration if no objections are filed by other unions. Registration may be contested with the MLE by other unions that represent workers in the same geographical area and professional category. In the case of such an objection, the MLE’s Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE does not register the union and union organizers may challenge this decision in the labor courts.

The 1988 Constitution significantly reduced the role of the Government in certifying unions; however, it retained various provisions established by the labor code in the 1940’s. One such provision is a restriction known as “unicidade” (“one-per-city”), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement, as well as the International Confederation of Free Trade Unions (ICFTU), criticize the retention of unicidade. Due to a continuing failure to reach agreement on the proposal, the Cardoso administration withdrew a proposed constitutional amendment to end unicidade that it had submitted to Congress in 1998.

In practice a number of competing unions have been allowed to exist among the thousands of local unions. However, these do not represent the norm, and the MLE and the courts actively enforce the principle of unicidade in decisions regarding the registration of new unions.

Approximately 16 percent of the work force is unionized, but nearly twice this percentage is charged a mandatory union tax and also is covered by collective bargaining agreements (see Section 6.b.). Most informal sector workers, including self-employed workers and those not formally registered with the labor ministry, fall outside of the official union structure. As a result, they do not enjoy union representation and are usually unable to exercise fully their labor rights. The informal sector has grown rapidly over the previous decade, and accounts for approximately half of the labor force. In the agricultural sector, 70 percent of workers are unregistered.

The Ministry of Labor estimates that there are roughly 11,000 unions across the country, but Ministry officials acknowledge that these figures are inexact. Local unions legally may affiliate with state federations and national confederations in their professional category. Although the law makes no provision for central labor organizations that include multiple categories of workers, there are four major centrals: the Workers' Unitary Central (CUT), the Forca Sindical ("Union Force"—FS), the Workers' General Confederation (CGT), and the Social Democratic Union (SDS). Labor centrals channel much of the political activity of the labor movement, organize strikes involving multiple categories, and represent workers in governmental and tripartite councils. Centrals do not have legal standing to represent professional categories of workers in collective bargaining.

The Constitution prohibits government interference in labor unions. Unions and their leadership generally are independent of the Government and of the political parties; however, there are some exceptions. For example, a number of labor leaders also hold prominent positions in political parties. Labor organizations often form alliances with political parties and social movements to advocate for specific issues. For example, the CUT joined with the National Conference of Bishops, the Landless Movement (MST), and a variety of NGO's to conduct a national plebiscite on debt repayment in September 2000 and to organize the World Social Forum in Porto Alegre in January 2001. The major union centrals have close relationships with left-of-center political parties and often coordinate actions with party leaders.

The Constitution provides workers with the right to strike, except for the military, police, and firemen. The law stipulates that a strike may be ruled "abusive" by labor courts and be punishable by law if a number of conditions are not met, such as maintaining essential services during a strike and notifying employers at least 48 hours before the beginning of a walkout. Failure to end a strike after a labor court decision is punishable by law. The Government generally does not interfere with the right to strike, provided that all laws are obeyed. Employers are prohibited from hiring substitute workers during a legal strike and from firing workers for strike-related activity provided that the strike is not ruled abusive. However, in practice, employers do fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge is often a protracted process.

The number of strikes has diminished in the past several years. According to the Inter-union Department of Socioeconomic Studies and Statistics (DIEESE) latest published statistics, there were approximately 550 strikes in 1999, compared with 1,250 strikes recorded in 1996. In the Sao Paulo metropolitan area and surrounding region, which covers the country's industrial center, data from the regional labor court showed that there were 84 strikes in 2000, the lowest number in a decade. Transportation workers, metalworkers, truck drivers, and petroleum workers conducted major private sector strikes during the year.

Congress has yet to pass complementary legislation making enforceable the labor code provisions permitting strikes in the public sector; however, in practice, the Government has not interfered with the right of most government workers to strike. Numerous public sector unions at the federal, state, and local levels held strikes during the year to demand salary increases. According to DIEESE, the Federal Government has not given a general salary increase to federal employees in 6 years, resulting in a significant erosion of real earnings. Public sector unions who struck during the year included social security workers, professors, judicial workers, and employees of the Labor Ministry.

Civil and uniformed police also walked out during the year in many states to demand salary increases and safer working conditions. While civil police are allowed to form unions and conduct strikes, uniformed police are prohibited from organizing. In July an illegal strike by uniformed police in Bahia state led to rioting and looting, which ended only after the Government sent in federal troops to regain control. Growing labor unrest among the police has prompted the Government to consider legislation that would limit association among uniformed police and the unionization of civil police.

Labor leaders and activists have been targets of violence during demonstrations, although there were no known examples of this during the year. In May 2000, Sao Paulo military police fired tear gas and rubber bullets into a crowd of striking workers from a coalition of 25 unions linked to the CUT. More than 20 strikers were injured. Strikers reacted by throwing rocks and cans at police, injuring five policemen. The ICFTU reported that police fired on striking workers at a government-run company in Brasilia in December 1999, killing public sector worker Jose Ferreira da Silva and injuring 20 others. Although police said that they used only tear gas and rubber bullets, live ammunition was found in Ferreira's body.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem. The CPT reported that labor leaders are victimized by a cam-

paigned of violence in rural areas, with the perpetrators enjoying relative impunity (see Section 1.a.). Of the 1,222 killings of rural labor leaders and land reform activists registered by the CPT since 1985, only 85 of the killings came to trial and only 8 persons have been convicted. The CPT reports that 18 rural labor leaders were murdered through the first 8 months of the year. CPT leaders in Para state claimed that hired gunmen working in the service of estate owners committed most of these murders.

In July labor activist Jose Pinheiro Lima and his wife and son were killed near Maraba in the state of Para. The authorities charged a landowner with ordering the deaths, but released him from custody.

Para continued to be the state with the most violence directed toward labor leaders. According to leaders of the National Confederation of Agricultural Workers, there is an organized campaign in the state of Para to kill rural labor leaders. According to Catholic Church activists, six activists had been killed in Para state as of August. Killings include the August death of Ademir Alfeu Federicci, a leader of the Federation of Agricultural Workers in Para, who was killed at his home by an unknown assailant. The labor movement, the landless movement, and the CPT led protests that called for police to investigate the crime as a political killing because of Federicci's public denunciations of official corruption. CPT leaders in the state of Para point to a growing sophistication in the contract killings of labor leaders in the state. They note that those who hire gunmen have become more adept at hiding their participation and increasingly target labor leaders with significant experience in organizing and leading land appropriations.

In November 2000, Jose Dutra da Costa, leader of the rural workers union of Rondon do Para, was killed by two gunmen in front of his home. Costa had been on the CPT list of labor leaders in the region "marked for death" for 8 years.

In May a local judge ordered that a trial of two men in Rio Maria, Para State (including the former mayor) charged with the 1985 murder of Joao Canuto, the first president of the local rural workers' union should proceed; the trial had not started by year's end. Canuto's daughter, Luzia Canuto, received death threats as a result of the case.

Human rights groups and land reform activists criticized a jury verdict in June in Paraiba absolving a landowner of guilt in the 1983 slaying of rural labor leader Margarida Maria Alves. The case is also the subject of an action in the Inter-American Human Rights Court.

Unions and centrals freely affiliate with international trade union organizations; the CUT, FS, and CGT are affiliated with the ICFTU.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right of workers to organize and to engage in collective bargaining. Businesses and unions are working to improve collective bargaining through training programs for negotiators, but many local representatives have not received this training and remain unprepared to represent members effectively in negotiations. The normative power of the labor justice system, which may set wages and working conditions when negotiations break down and either party appeals to labor courts, continues to weaken collective bargaining. Although such appeals occur less frequently than they did a decade ago, the possibility of a better result in labor courts still leads to a lack of bargaining in good faith by parties in numerous negotiations.

Collective bargaining is widespread in the formal sector. In 2000 more than 18,000 agreements were registered with the Ministry of Labor. Unions are obliged by law to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union. Unions typically negotiate with employer associations (also called unions) that represent companies with employees in the same area and occupational category.

In 1995 the Cardoso administration promulgated a measure that simultaneously ended inflation indexing of wages, allowed for mediation of wage settlements if the parties involved so desired, and provided greater latitude for collective bargaining. Previously, labor courts and the Labor Ministry had responsibility for mediation in the preliminary stages of dispute settlement. Although labor court decisions still set wages in many disputes, parties now may choose mediation as an alternative. Free mediation services are provided by the Ministry of Labor and the Public Ministry of Labor, and unions and employers also may choose a private mediator from a registry kept by the Labor Ministry. According to the MLE data, in 2000 over 10,000 collective bargaining agreements used mediation services.

The Constitution prohibits the dismissal of employees who are candidates for or holders of union leadership positions. However, the authorities do not enforce effectively laws that protect union members from discrimination. Those who are dismissed must often resort to a lengthy court process for relief. Labor courts charged

with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances are slow and cumbersome. It is estimated that over 2.5 million complaints were languishing in the labor court system at the end of 2000. Although most complaints are resolved in the first hearing, the appeals process introduces many delays, and some cases remain unresolved for 5 to 10 years. According to the Supreme Labor Court, over 2 million complaints are registered annually in labor courts.

The Government is attempting to reduce this backlog and increase the efficiency of the courts. A January 2000 law enables cases with relatively low monetary claims to be adjudicated in one meeting with a judge within 30 days of the filing. Another law promotes the formation of employee/employer conciliation commissions designed to resolve grievances before they reach the labor courts. Approximately 500 such commissions were created in the first year of the law's existence, and roughly half of the complaints arriving in many labor courts can be handled with the expedited procedure. Nevertheless these changes have not had a major impact on the functioning of labor courts, and lengthy delays remained frequent.

Labor law applies equally in the country's four free trade zones, of which Manaus is the largest. The unions in the Manaus free trade zone, like rural unions and many unions in smaller cities, are weaker in relation to employers than unions in the major industrial centers. While 14 export processing zones have been authorized, construction has begun in only 4 of them.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced labor; however, forced labor and internal trafficking are problems in many parts of the country (see Section 6.f.). Forced labor is most common in the rural north and center-west of the country, in activities such as forest clearing, logging, charcoal production, raising of livestock, and agriculture. Forced labor typically involves young men drawn from the impoverished Northeast, but women and children also have been found in activities such as charcoal production. Although indigenous people comprise a small percentage of the overall population, they are especially vulnerable to becoming trapped in forced labor when separated from their communities (see Section 5). Labor inspectors also have found immigrants working in conditions of forced labor in Sao Paulo. According to government officials, Bolivian, Korean, and Chinese laborers are exploited in sweatshops in cities such as Sao Paulo under conditions that may involve fraud or coercion.

The majority of cases occur when employers recruit laborers from population centers and transport them long distances to remote areas where escape is difficult (see Section 6.f.). Union leaders report that most of the rural workers trapped in forced labor have been trafficked to the remote estates on which they work. Once at the worksite, laborers often are forced to work in brutal conditions until they are able to repay debt related to the costs of travel, tools, clothing, or food. Armed guards sometimes are used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm often are sufficient to prevent laborers from fleeing. The CPT reports that fleeing workers sometimes are killed or beaten to set an example to others at the worksite.

According to the Penal Code, violators of forced or compulsory labor laws may be sentenced up to 8 years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting, transporting, or obliging workers to incur debt as part of a forced labor scheme (see Section 6.f.). A 1988 law allows the Government to appropriate lands on which forced labor has been found and to distribute the property in the Government's land reform program. However, this law rarely is applied, in part because compensation values for seized lands have been criticized for being too generous. Legislation that would permit confiscation of land on which forced labor is discovered was approved by the Chamber of Deputies and was awaiting a vote in the Senate at year's end.

Government officials and labor activists say that widespread poverty, low levels of education, and lack of awareness of workers' rights greatly complicate efforts to combat forced labor. Enforcement also has been hampered by the remoteness of the areas in which forced labor is practiced and the difficulty of arriving in these areas without alerting those using illegal labor. Although more than 3,300 instances of forced labor have been discovered by inspection teams since 1995, only 2 persons had been sentenced for these crimes by year's end. Numerous factors hampered prosecutions: Disputes over legal jurisdiction, political pressure at the local level, and a lack of coordination between the police, the judiciary, and prosecutors. Witnesses' fear of retaliation and the fact that police generally do not conduct criminal investigations when accompanying labor inspectors on raids also complicate efforts to build a solid case in court. Therefore the authorities often have found it difficult to identify and prosecute the owners of farms or businesses that exploit forced labor. In its March 2000 report, the ILO Committee of Experts noted that when convic-

tions do occur, usually only the third party recruiters are punished and the owners of the large estates who employ illegal labor are not sanctioned. The failure to prosecute perpetrators and to confiscate lands on which forced labor is practiced has led to a sense of impunity by estate owners. As a result, a number of estate owners have been cited repeatedly for employing slave labor.

The Executive Group to Combat Forced Labor (GERTRAF) coordinates Federal Government efforts to eliminate forced labor. GERTRAF, which is chaired by the Ministry of Labor and Employment, includes representatives from seven ministries, as well as from unions, employers, and NGO's. GERTRAF is charged with coordinating government policies on forced labor and evaluating legislative needs. After 2 years of relative inactivity, GERTRAF was revived during the year, leading to greater cooperation among government agencies. A number of initiatives began during the year, including expanded participation of unions and NGO's in GERTRAF and the formation in December of a special working group on forced labor in the Justice Ministry. Enforcement of laws on forced labor is the responsibility of the Federal Public Ministry; the Public Ministry of Labor also may become involved in investigating such cases (see Section 6.f).

The enforcement arm of GERTRAF is the Special Group for Mobile Inspection (SETIF), which works in conjunction with Federal Police. SETIF is coordinated by the MLE's Secretariat for Labor Inspection, and it is operated out of four regional offices. The relatively centralized structure is designed to insulate SETIF from local political pressure. The mobile unit operates in secret to avoid alerting estate owners and ranch managers to planned actions, and it conducts raids under the protection of federal police officers. When SETIF teams find workers in conditions of forced labor, they levy fines on estate owners and require employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin.

Since its inception in 1995, the mobile group has liberated over 3,300 forced laborers. During the year, the mobile group liberated approximately 1,600 workers and levied fines of more than \$460,000 (1.1 million reais), greatly exceeding its results in any other year of operation. In one of its largest operations, in April the mobile group rescued 144 workers from conditions of forced labor on three ranches in Maranhao state. The workers, who were employed in raising livestock, were being held against their will because of debts that they incurred at the worksite. Anti-Slavery International reports that many of these workers had not received payment for several months.

Despite the efforts of the Mobile Unit, its overall impact on the incidence of forced labor has been limited by insufficient resources, the hidden nature of forced labor in remote areas, and the few prosecutions in the justice system.

The CPT is the leading NGO working to identify and eradicate forced labor. Through a network of local churches and regional offices, the CPT has tracked instances of forced labor for over 15 years. The CPT reported over 2,000 cases of forced labor during the year. Most of the reported forced labor occurs in Para state, and the CPT believes that the practice has increased in the state during the year. CPT representatives also note that these figures significantly understate the actual number of workers trapped in conditions of forced and compulsory labor in the country. The CPT runs an informational campaign called "Stay alert to avoid slavery," through which it distributes pamphlets to rural workers in areas that have been targeted by traffickers (see Section 6.f). Nevertheless, poverty and a lack of viable alternatives lead many workers repeatedly to fall prey to trafficking and forced labor schemes.

In a number of states, local unions register and track workers who leave the municipality to work on remote ranches. The National Confederation of Agricultural Workers also has attempted to educate workers about the dangers of forced labor in its radio messages. In 1997 the CUT labor central initiated a 24-hour hot line with a toll-free number for reporting instances of forced labor; however, the line received few complaints, and was discontinued in 1999 due to a lack of a visible impact and follow-up by authorities.

In November the ILO established a major program to support governmental efforts to fight forced labor through improved interagency cooperation, strengthened enforcement of forced labor laws, and provision of additional resources to the mobile inspection unit. The ILO plans to fund research, launch a public awareness campaign, and provide training for government agencies involved in curbing forced labor. The program also envisions a pilot income generation program for rescued workers that aims to prevent the recurrence of forced labor.

Trafficking in women and children for the purpose of forced prostitution also is a problem (see Section 6.f).

The law prohibits forced and bonded labor by children; however, a small number of children have been found working in conditions of forced labor. The CPT reported seven cases of forced child labor during the year. During the year, the mobile inspection unit of the MLE found 21 children under the age of 16 working on ranches where forced labor was found. Most instances of forced child labor occur when children accompany parents who are trapped in forced labor on remote worksites. In March 2000, the ILO reported that observers have cited over 3,000 girls who were subject to debt servitude and forced into prostitution in Rondonia state.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law restricts work that may be performed by children; however, child labor is a serious and widespread problem despite government efforts to combat it. The minimum working age is 16 years of age, and apprenticeships may begin at 14 years of age. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions. However, the authorities rarely enforce additional legal restrictions intended to protect working minors under age 18.

The law requires permission of the parents for minors to work as apprentices, and working minors must attend school through the primary grades. Because the legal working age is 16, the Government is attempting to increase the number of apprenticeships to provide more opportunities to 14- and 15-year-olds. Legislation passed in December 2000 aims to expand apprenticeship programs by allowing a broader range of institutions to provide such programs. Previously, only state-linked training institutions could offer apprenticeship programs. Information was not available on the legislation's effect during the year.

According to government figures, the number of working children under 16 decreased from 5.1 million in 1995 to 3.8 million in 1999. Nevertheless, more than 2.9 million children under the age of 15 continued to work in 1999. Many work together with their parents, most often in agriculture. Approximately half of child laborers receive no income, and 90 percent are found in the unregistered informal sector. The highest incidence of child labor is found in the Northeast, where half of all child workers are employed. Slightly over half of child workers are found in rural areas, and two-thirds are boys. Frequent accidents, unhealthy working conditions, and squalor are common.

A 1999 Labor Ministry report indicates that children work in about 100 rural and urban activities. Common rural activities include fishing, mining, raising livestock, producing charcoal, and harvesting sugarcane, sisal, tobacco, cotton, citrus fruits, and a variety of other crops. In urban areas, children are found in shoe shining, transportation, construction, restaurants, street peddling, begging, drug trafficking and prostitution (see Section 5). According to the Government's Institute for Applied Economic Research, in 1998 there were approximately 800,000 girls between the ages of 10 and 17 working as domestic servants. UNICEF estimates that 50,000 children pick through trash dumps to generate income for their families.

Due to the hidden and informal nature of child labor, children are especially vulnerable to workplace accidents and often work in dangerous conditions. The ILO reports that the fragility of children and their lesser-developed ability to recognize risks in the workplace place them in a particularly precarious position. Children working in dangerous activities such as charcoal production, sisal production, sugarcane harvesting, and footwear suffer injuries including dismemberment, gastrointestinal disease, chronic fever and headaches, lacerations, blindness, and burns and poisoning caused by the unprotected application of pesticides. Studies have shown that rates of child labor are higher among citizens of African descent than among whites (see Sections 1.c. and 6.d.).

The Federal Government administers a total of 33 programs under 5 separate ministries aimed at combating child labor. The Ministry of Labor and Employment is responsible for inspecting worksites to enforce child labor laws. These efforts are guided regionally by Special Groups for the Eradication of Child Labor, which gather data and develop plans for child labor inspection. Nevertheless, most inspections of children in the workplace are driven by allegations and tips from workers, teachers, unions, NGO's, and the media. Approximately 3,250 inspectors conducted over 11,000 inspections during the first 7 months of the year, reaching roughly 60,000 workers under 18 years of age. In 2000 labor inspectors began to prioritize inspections in the informal sector to reduce the number of unregistered workers, but they remain unable to enter private homes and farms, where much of the nation's child labor is found. In most cases, inspectors attempt to reach agreements and have employers desist from labor law violations before levying fines equivalent to \$155 (400 reais) per violation. As a result, few employers actually are fined for employing children.

Labor Ministry inspectors often work closely with prosecutors from the Public Ministry of Labor (PML), who have broader powers and are able to impose larger fines. The PML, which is an independent government agency responsible for prosecuting labor infractions and promoting compliance with labor laws, played a greater role in fighting child labor during the year. In November 2000, the PML created a national commission to fight child labor. The commission includes 50 prosecutors and is focusing on strategic areas including sexual exploitation, trash-picking, apprenticeships, and work in a family setting. The commission has allowed the PML to be more responsive to complaints regarding child labor and to encourage public commitments from officials to address child labor.

The Ministry of Social Security and Assistance coordinates the Government's Program for the Eradication of Child Labor (PETI), which provides cash stipends to low-income families who keep their children in school and out of work activities. This program is the Government's primary effort to end the worst forms of child labor. Because the public school day lasts only 4 hours, PETI also offers complementary cultural and instructional activities to children during nonschool hours to keep them out of work. PETI has grown from assisting about 3,700 children in 2 states in 1996 to roughly 600,000 children in all 26 states and the federal capital by the end of the year. The program focused on removing children from work activities considered to be among the most hazardous by the Government, such as charcoal production, sugar cane harvesting, horticulture, brickmaking, mining, trash picking, shoe shining, and street peddling. Although the program is concentrated in rural areas, it is growing rapidly in urban areas as well.

During the year, the Federal Government expanded its Program for the Guarantee of a Minimum Income and renamed it the Bolsa Escola (School Stipend) program. The program provides mothers of low-income families with stipends equal to \$6 (15 reais) per child between 6 and 15 years old, for each of up to 3 children. To receive the stipend, the child's monthly attendance rate must be 85 percent. The Ministry of Education coordinates the Bolsa program, but responsibility for day-to-day management falls largely on municipal governments. At year's end, the program provided stipends to the mothers of approximately 9 million children in over 5,000 municipalities. Nevertheless critics are concerned that the program's rapid implementation, lack of comprehensive oversight, and small stipend value may compromise its ability to discourage child labor. In addition to the federal program, an estimated 100 municipal governments operate stipend programs, including Belem, Campinas, Belo Horizonte, Manaus, Olinda, and Recife.

In 1999 the Government ratified ILO Convention 138 dealing with the minimum age for work and Convention 182 on the eradication of the worst forms of child labor; in June the Government submitted 16 as the minimum age regarding Convention 138.

In March 2000, the Ministry of Labor established a tripartite commission that produced a list of roughly 80 activities to be considered worst forms of child labor. These activities, which include cutting sugar cane, applying pesticides, and driving tractors, now are prohibited to all workers under 18. ILO Convention 182 entered into force in February.

As part of its efforts to combat the worst forms of child labor, in 2000 the Government instituted the Sentinel Program to combat the sexual exploitation of minors (see Section 5). The National Forum for the Prevention and Eradication of Child Labor, which has chapters in every state and over 40 institutional members from government, unions, employers, and NGO's, promotes debate and analysis of national child labor prevention efforts. The Centers for the Defense of Children and Adolescents are active in many parts of the country, and report violations of children's rights and implement eradication programs (see Section 5).

Representatives from the private sector and unions also play a major role in fighting child labor. The Toy Industry's ABRINQ Foundation for Children's Rights operates a labeling program that identifies companies with child-friendly policies and a commitment to eliminate child labor in the production chain. The Foundation also fosters prochild initiatives through its awards to organizations, journalists, and mayors. The Pro-Child Institute in the state of Sao Paulo coordinates a labeling program in the footwear industry. The Institute has helped to reduce significantly instances of child labor in footwear production in the state, and it plans to expand to other regions and industries. All major labor centrals have implemented programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

The ILO's Program on the Elimination of Child Labor (IPEC) sponsors programs in footwear, charcoal, citrus, sisal, and domestic service. IPEC programs have focused on capacity building, awareness raising, research promotion, and the incorporation of income generating schemes and monitoring systems into child labor pre-

vention programs. The ILO also coordinates a program to reduce the incidence of child labor in domestic service and the sexual exploitation of children (see Section 5). In addition, the ILO is supporting a child labor survey by the national statistics agency that is expected to provide the first comprehensive look at child labor and serve as a baseline for measuring the success of government programs. The survey questionnaire was sent out in August and final results are expected to be published in March 2003.

Through its central and regional offices, UNICEF supports over 200 programs to improve the lives of children. Since June 1999, UNICEF has helped to remove over 13,000 children from work in garbage dumps and placed them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

The law prohibits forced and bonded labor by children; however, it does occur (see Section 6.c.). Trafficking in children for purposes of prostitution is a problem (see Sections 5 and 6.f.).

e. Acceptable Conditions of Work.—The Government adjusts the minimum wage annually; in April it was raised to approximately \$75 (180 reais), which is not sufficient to provide a decent standard of living for a worker and family. A 2000 study by DIEESE concluded that the minimum wage was only about one-fifth of the salary necessary to support a family of four in the Sao Paulo metropolitan area. According to the IBGE, approximately one in three workers earns the minimum wage or less.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also includes a prohibition on excessive overtime and stipulates that hours worked above the weekly limit must be compensated at a rate equal to time and a half; these provisions generally are enforced in the formal sector. The law allows employers to compensate workers in time off rather than in overtime pay, provided that the local union agrees to the arrangement. According to DIEESE, more than 40 percent of salaried employees in Sao Paulo worked over the legal weekly limit in 1999.

Unsafe working conditions are prevalent throughout the country. More than 340,000 workplace injuries, including approximately 4,000 fatalities, were registered with the Ministry of Social Security and Welfare in 2000. Fundacentro, part of the Ministry of Labor, sets occupational, health, and safety standards, which are consistent with internationally recognized norms. However, the Ministry has insufficient resources for adequate inspection and enforcement of these standards. Employees or their unions may file claims related to worker safety with regional labor courts, although in practice this is frequently a protracted process. According to the Ministry of Labor, the most dangerous industries in the country are logging, mining (including oil drilling), construction, and oil refining. During 2000, the logging industry had a rate of 37 deaths per 100,000 workers.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings do occur, and legal recourse usually requires years before resolution. Individual workers do not have the legal right to remove themselves from the workplace when faced with hazardous working conditions; however, workers may express such concerns to the internal committee, which would conduct an immediate investigation.

f. Trafficking in Persons.—The law prohibits the transport of persons for illicit reasons within and outside the country; however, trafficking in persons to, from, and within the country is a problem. Internal trafficking, which most often involves rural workers being transported to remote ranches to work under slave-like conditions, is a serious problem (see Section 6.c.). Trafficking of rural persons to urban areas also occurs to a lesser extent. The authorities estimate that thousands of women and children are trafficked, both domestically and internationally, both for sexual exploitation and domestic servitude. Young men are trafficked primarily domestically in the agricultural labor market. Labor inspectors reported that persons also are trafficked into the country from other countries such as Bolivia.

No comprehensive government figures are available on the extent of trafficking within, to, or from the country. The majority of cases of internal trafficking occur when employers recruit laborers from population centers and transport them long distances to remote areas where escape is difficult. Once at the worksite, laborers often are forced to work in brutal conditions until they are able to repay debt related to the costs of travel, tools, clothing, or food (see Section 6.c.) Union leaders report that most of the rural workers trapped in forced labor have been trafficked to the remote estates on which they work. This system involves labor contractors who promise well-paying jobs and arrange transportation for workers, sometimes by small airplane due to the remoteness of the worksites. Rural workers are recruited

in small towns or are found in hotels that serve as bases for migrant workers in this system. Victims often are charged exorbitant prices for transportation and lodging, prices that figure into the overall debt used to trap them in forced labor.

CECRIA has mapped the trafficking of women and children for sexual exploitation (see Section 5.). Domestic routes include from the state of Goias to Sao Paulo and Rio de Janeiro, from rural areas in the North and Northeast to coastal cities for sexual tourism, and from small towns in the North to outposts in the Amazon region where itinerant workers often transit. Internationally, women and children are trafficked from the North of the country into Suriname, and sometimes from there on to Europe. The Northeast, Sao Paulo, Goias, and Rio de Janeiro are the primary sources of persons trafficked into Europe, Israel, Asia, and the United States. In Europe, Brazilian women are trafficked to Spain, Portugal, Italy, the Netherlands, Switzerland, and Germany. CECRIA has also identified trafficking routes of children for sexual exploitation from the southern region of the county into Argentina and Paraguay.

Young women who fall prey to trafficking schemes are typically between 18 and 27 years old, come from low-income families, and usually have not finished high school. The NGO Chame reports that about 80 percent of the women who are trafficked to Europe from the state of Bahia are single mothers. Traffickers often target victims with promises of lucrative work as dancers or models in Europe; beauty contest winners have been cited as common targets. According to one NGO, girls are recruited at clubs and modeling agencies, or through the Internet, want-ads, mail-order bride schemes, and maid and au pair services. Police officials believe that most women who are recruited by trafficking organizations understand that they are to work as prostitutes, but they are lied to about working conditions and their prospective earnings. In other cases, women are told that they are to work as nannies or as household servants. Upon arrival, victims of trafficking often have their passports confiscated and are forced to prostitute themselves and live in virtual confinement. In addition to the threat of physical violence, perpetrators often use debt and isolation to control the victims.

Young men are trafficked primarily domestically in the agricultural labor market (see Section 6.c.); however, they reportedly also have been trafficked as athletes to Europe and subjected to humiliating conditions or coerced into employment unrelated to sports, including prostitution.

In 1998 the Penal Code was altered to increase the penalty for those who recruit and transport workers domestically through the use of fraud and for those who do not assure a return passage to workers. Traffickers charged under this law may receive a fine and prison sentences of 1 to 3 years, which are increased slightly if the victim is under 18, a senior citizen, pregnant, handicapped, or a member of an indigenous group. The Penal Code establishes a prison sentence of 3 to 8 years for transporting women in or out of the country for the purposes of prostitution. If fraud, force, or threats are employed, the sentence increases to between 5 and 12 years. The Statute on Children and Adolescents requires the permission or presence of both parents for children to leave the country. It also prohibits children from leaving the country with a foreigner unless previous approval is given by the authorities. Local activists claim that laws on trafficking are open to various interpretations and difficult to enforce, and they call for comprehensive legislation to aid in prosecution of traffickers and assistance for victims.

The Federal Police do not enforce effectively laws on domestic trafficking, especially in relation to the thousands of rural workers trafficked in the North and Northeast (see Section 6.c.). In spite of more than 3,300 instances of forced labor having been discovered by labor inspectors since 1995, and only 20 arrests have been made by year's end. Police typically accompany labor inspectors on raids solely to protect inspectors. Police rarely investigate the traffickers who brought the workers to the remote ranches and transferred their debt to ranch operators. Investigative efforts also are hampered by the mobility of labor contractors and by the fact that traffickers are not usually at the work site when inspectors arrive. To improve the investigative ability of the Federal Police, some officers are beginning to receive training to recognize forced labor and understand the laws concerning trafficking. Federal prosecutors and NGO's have reported that corruption among state police often impedes the apprehension of traffickers.

The Ministry of Labor and Employment tracks cases of forced labor, most of which involve workers who are trafficked from other regions of the country. MLE figures for 2000 indicate that 583 rural workers were freed from forced labor by the MLE's special mobile inspection unit on raids of 120 properties.

Prosecution of traffickers is the responsibility of the Federal Public Ministry, and the Public Ministry of Labor may also become involved in investigating cases of forced labor. The Federal Highway Police are responsible for checking documents

and monitoring movement along highways and roads, and in some cases they have been involved in apprehending suspected traffickers. In one case in 2000, highway patrol officers suspected sex trafficking and turned around two buses carrying adolescent girls to a resort town in the Pantanal during a major fishing competition. Federal and state police have begun to monitor the Internet to detect on-line recruitment by sex traffickers, and at least one prosecution for such an offense occurred due to a complaint from an NGO (see Section 2.a.). GERTRAF coordinates Federal Government efforts to eliminate forced labor (see Section 6.c.).

Federal police officers report difficulty in capturing and incarcerating traffickers because of the legal requirement to catch them in the act of traveling with the victims. In addition, most women who leave the country with traffickers do so willingly, and only upon arrival do they realize the abusive conditions under which they are forced to work and live. Officials also state that fear of reprisals keeps a number of victims from seeking police intervention or from testifying against their traffickers.

The Federal Police arrested several suspects in the capital of Brasilia, Goias, Rio de Janeiro, and Ceara involved in recruiting women to work as prostitutes abroad, mainly in Spain, but also in Portugal, Japan, and Israel. In July Federal Police arrested 20 persons linked to the largest prostitution trafficking ring discovered in the country. The ring, which was financed and coordinated by 2 sisters, trafficked over 100 women to Spain from 6 states and the federal capital. The scheme relied on recruiters to locate young women and lure them with money and the promise of a well-paying job abroad. Upon arrival, the women had their passports and money taken from them and were forced to prostitute themselves. After a period of 3 months, their documents usually were returned and they were able to return to Brazil. Officials learned of the ring through a charge filed by the mother of a young woman who returned from Spain. The woman traveled to Spain believing that she would work as a domestic servant but instead was taken directly to a brothel and forced to work as a prostitute. The women who coordinated the ring are being held in Spain on charges of forced prostitution, drug trafficking, and falsification of documents.

In June Federal Police in Rio de Janeiro uncovered a trafficking scheme responsible for taking men and women to Japan to work as prostitutes. The ring was reported by a man who mistakenly believed he was being taken to Japan by a promoter to perform Brazilian dances in a show. Instead, he discovered that he was expected to have sex with Japanese women and transvestites. After he contacted a prosecutor in Rio de Janeiro to report the scheme, he was able to return. During the investigation, federal police found evidence suggesting that the Japanese mafia was involved in trafficking other men and women to Japan from Rio de Janeiro and Sao Paulo. Interpol is working in cooperation with the authorities to investigate the case.

The Government has begun to focus attention and promote discussion on the issue of trafficking in persons. In November 2000, it hosted the first international conference of the U.N. Drug Control Program (UNDCP) on trafficking in persons. Also in November, the Public Ministry of Labor held a conference in Belem, Para, to address trafficking and discuss concerns of civil society on the issue. The Government included trafficking as a priority area in the National Plan to Combat Sexual Exploitation of Children (see Section 5). To aid in this effort, CECRIA is consolidating various data sources into the first comprehensive study of trafficking for sexual exploitation in the country. The study is scheduled to be completed in July 2002.

The Government is engaged in several programs to combat trafficking, including public information campaigns, and a Ministry of Justice campaign against sexual exploitation of minors. The Government took a number of steps over the year to combat child prostitution (see Section 5).

Victims are not treated as criminals, but access to shelter and to legal, medical, and psychological services may be very limited in practice due to a lack of governmental resources. The State of Rio de Janeiro has centers to provide assistance to female victims of violence and there are NGO's that help women who are victims of abuse (see Section 5). In December the Ministry of Justice announced a new program (in cooperation with the UNDCP) to combat trafficking in persons for the sex trade, including research, an informational campaign, and support for an assistance network for victims of trafficking.

The Humanitarian Center to Support Women in Salvador, Bahia, sponsors research and coordinates a campaign in Bahia to educate girls and women about the risks of being trafficked abroad. The Brazilian Multiprofessional Association for the Protection of Children and Adolescents manages a number of programs in Rio de Janeiro aimed at protecting youth from trafficking and domestic and sexual abuse.

NGO's report that government efforts to combat trafficking in persons and assist victims are poorly coordinated.

CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government. Citizens periodically choose their representatives in free and fair multiparty elections. Jean Chretien began his third consecutive term as Prime Minister in November 2000; his Liberal Party had a majority of 172 of 301 seats in Parliament. The judiciary is generally independent.

Elected civilian officials control the federal, provincial, and municipal police forces. The armed forces have no role in domestic law enforcement except in national emergencies. Laws requiring the security forces to respect human rights are observed strictly, and the courts punish violators.

The country has a population of approximately 30.7 million, who live in a highly developed, market-based economy. Laws extensively protect the well-being of workers and provide for workers' freedom of association.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means for dealing with individual instances of abuse; however, there were problems in some areas. Problems include discrimination against women, persons with disabilities, and aboriginal people. There was an increase in anti-Semitic harassment, and after September 11, there was an increase in anti-Muslim harassment. The Government continued to take serious steps to address private acts of violence against women. Trafficking of persons into the country, including trafficking for purposes of prostitution, is a growing problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings.

In June an off-duty Royal Canadian Mounted Police (RCMP) officer shot and killed his former girlfriend and injured three other persons riding in a car with her. The authorities immediately arrested him and charged him with murder and attempted murder. Provincial authorities publicly stated that he would receive no preferable treatment because he was a police officer, and that his case would be handled like any other crime. At year's end, his trial was scheduled for March 2002.

Four Toronto policemen were charged with manslaughter for the death of a suspect whom they beat while taking him into custody outside a convenience store in August 2000. The case is scheduled for a hearing in June 2002.

The RCMP completed an inquiry into the deaths of four native men in Saskatoon, Saskatchewan in 2000. Two of the men were found frozen to death in January and February 2000 in an isolated area on the outskirts of Saskatoon. The other two died at or near their homes—one from a drug overdose shortly after being released from police custody. The RCMP found no basis for any criminal charges. Local authorities conducted a coroner's inquest in October, which found no evidence of criminal conduct in one of the deaths. A coroner's inquest into the second victim's death was scheduled for January 2002.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the Government generally observes these prohibitions in practice; however, there were isolated incidents of police mistreating suspects.

In June two Saskatoon city police officers were found guilty of illegally confining a native man in January 2000. The policemen left the person in subzero temperatures without adequate clothing in the same spot where two other native men froze to death around the same time (see Section 1.a.). The third man found help and survived. The authorities fired the two police officers, who were sentenced in October to 8 months in jail. At year's end, the officers were free on bail pending an appeal.

The military continued to receive complaints from women serving in the armed forces who charge that they are subject to sexual abuse, harassment, and discrimination. An armed forces grievance board that is independent of the military chain of command began operations in June 2000. In addition, other mechanisms established by the Government to address such complaints, including the Advisory Board on Canadian Forces Gender Integration and Employment Equity and an Ombudsman in the Department of National Defense, continued to operate. At year's end,

the Ombudsman had received six sexual assault complaints, five sexual harassment complaints, and two gender discrimination complaints.

On December 6, the Supreme Court placed tight controls over police strip searches in a ruling prompted by a 1997 Toronto case, in which the victim was bent over a table and forcibly strip searched in a fast food restaurant. Other Toronto cases cited by the Court included the 1998 strip search of two Toronto schoolgirls accused of stealing earrings from a drug store, the 1999 strip search of a British lawyer taken off the street in a case of mistaken identity, and the strip search in March of eight female students at Trent University who participated in a sit-in at the school's front office. Prior to the Court's ruling, the Toronto police had revised their strip and body cavity search policies and procedures. Under their new policy, only a senior police official may authorize a strip search and only when there are reasonable grounds; such searches must be performed by an officer of the same sex as the subject. Strip searches, once properly authorized, may not be conducted in public. Police no longer are authorized to conduct body cavity searches. If deemed necessary, a cavity search must be performed by a physician at a medical facility, and only with consent or by court order. At year's end, there were no complaints about unnecessary strip or body cavity searches under investigation.

In August the RCMP Public Complaints Commission released an extensive interim report on the controversy surrounding the use of pepper spray to break up demonstrations at the 1997 Asia Pacific Economic Cooperation (APEC) conference in Vancouver (see Section 2.b.). The report concluded that the RCMP actions violated protesters' rights at APEC and "did not meet an acceptable and expected standard of competence, professionalism, and proficiency."

Prison conditions generally meet international standards, and the Government permits visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest, detention, or exile, and the Government generally observes these prohibitions in practice. Bail is generally available.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the Government generally respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process and vigorously enforces the right to a fair trial.

The court system is divided into federal and provincial courts, which handle both civil and criminal matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters.

The judicial system is based on English common law at the federal level as well as in most provinces; in the province of Quebec, it is derived from the Napoleonic Code. Throughout the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (which is free for indigents), and to appeal. The prosecution also may appeal in certain limited circumstances.

The law provides for immunity from human rights laws for judges.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law generally prohibits such practices, government authorities generally respect these prohibitions in practice, and violations are subject to effective legal sanction.

In December Parliament passed an antiterrorism bill that expanded police investigative and wiretapping powers.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, the Supreme Court has ruled that the Government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. The Court ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Journalists occasionally are banned from reporting some specific details of court cases until a trial is concluded, and these restrictions, adopted to ensure the defendant's right to a fair trial, enjoy wide popular support. Some restrictions on the media are imposed by provincial-level film censorship, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography. The Charter of Rights and Freedoms provides for free speech and free press, but both the Criminal Code and human rights legislation have established limits. Inciting hatred (in certain cases) or genocide is a criminal offense. The Supreme Court has set a high threshold for such cases by specifying that these acts must be proven to be willful and public. The Broadcasting Act, which prohibits programming containing

any abusive comment that would expose individuals or groups to hatred or contempt, has not yet been challenged in the courts.

The Human Rights Act also prohibits repeated communications by telephone that expose a person or group to hatred or contempt. Human rights groups are exploring the possibility of extending this prohibition to the Internet, arguing that the Internet should be considered “telephonic communications” and therefore covered under the Human Rights Act. In February the Canadian Human Rights Tribunal (a government entity) completed hearings on the Ernst Zundel case examining whether a specific web site exposed Jews to hatred or contempt on the basis of their race, religion, or ethnic origin. The Tribunal was expected to issue a decision in January 2002.

In September officials dropped charges against a high school student who was arrested in November 2000 for uttering threats. The student was arrested after reading aloud in class a fictional essay he wrote for a class assignment, in which a bullied boy blows up his school. The case sparked widespread civil rights concerns that the charges violated the student’s right to freedom of expression. Authorities claimed that the charges stemmed from death threats the student allegedly made against three other students who beat him up.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Charter of Rights and Freedoms provides for these rights, and the Government generally respects them in practice.

Several NGO’s, including the Canadian Civil Liberties Association, the Canadian Human Rights Commission, and Amnesty International, called for an investigation of police treatment of protesters at the Summit of the Americas in April. Quebec Public Security Minister Menard dismissed calls for an investigation, saying that police used the least violent methods possible under the circumstances. A report by a group of independent observers, appointed by Menard to monitor police forces during the Summit and ensure there was no infringement of basic rights and freedoms, concluded that the police generally respected basic human rights such as the right to demonstrate peacefully.

In August the RCMP Public Complaints Commission released an extensive interim report on the use of pepper spray to break up demonstrations at the 1997 APEC conference in Vancouver. The issues covered by the Commission included whether actions taken by police were justified by the security risk and whether political considerations such as direct influence from senior political leaders played a role in determining the level of RCMP response to protesters’ actions. The report concluded that the RCMP actions violated protesters’ rights at APEC and “did not meet an acceptable and expected standard of competence, professionalism, and proficiency.” It also found that an aide to the Prime Minister intervened when he should not have, and that the RCMP “had succumbed to government influence and intrusion in an area where such influence and intrusion were inappropriate.”

c. Freedom of Religion.—The Charter of Rights and Freedoms provides for freedom of religion, and the Government generally respects this right in practice.

In the province of Saskatchewan, during the 2000–01 academic year the Saskatoon school board implemented a new policy called “School Opening Exercises: Connections to Curricula and Celebrations,” replacing its prior policy requiring children to recite (or remain silent during the recital of) the Lord’s Prayer. Under the new policy, daily school opening exercises are limited to: Instruction on the values education units developed by the Saskatoon Public Schools Division; opportunities for personal reflection through a moment of silence, writing in a personal journal, or sharing a thought for the day; or the singing of the national anthem.

Public funding for Roman Catholic schools—or separate schools—is constitutionally protected in the country’s original four provinces, but the policy has been challenged in recent years. In 1999 the U.N. Human Rights Committee found that the province of Ontario had failed to provide equal and effective protection against discrimination. On June 27, the Ontario provincial legislature passed a graduated tax credit plan for parents of children attending all private schools, removing the historical limitation that provided such credits only in regard to Roman Catholic schools. The plan is scheduled to be phased in over the next 5 years, beginning in 2002.

In 1999 the government-mandated Proulx task force submitted a report on religion in schools to the Quebec provincial assembly. Its 14 recommendations included abolishing Catholic and Protestant status for public schools and creating secular public schools within which religion would be studied from a cultural perspective. Publicly funded support services would be provided for students of all faiths. In June 2000, the Quebec provincial assembly passed Bill 118, which incorporated the

Proulx report recommendations. This legislation based school commissions and schools on linguistic rather than religious lines, required schools to provide either Catholic, Protestant, or moral education classes, and reduced teaching hours for such classes from 120 to 72 hours per 2-year cycle. All public schools in Quebec are open to all and are not faith-based.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respects them in practice.

The law provides for the granting of asylum and refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and extends first asylum. Canada is a resettlement country, and the Government projected approving over 40,000 claims for refugee status during the year.

In January the authorities deported a Tunisian national after his asylum claim was denied. On his return to Tunisia, he was sentenced to 3 years in prison and 5 years' administrative detention for participating in a student association. He claimed that he was tortured during pretrial detention. He was released due to political pressure from inside Tunisia and Canada, and was readmitted to Canada under a special permit from the Minister of Immigration. Other than this case, there were no reports of the forced expulsion of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

In November 2000, the Liberal Party won a majority with 172 of 301 seats in the national parliamentary elections. The Canadian Alliance (conservative) won 66 seats, the Bloc Quebecois (separatist) won 38 seats, the New Democratic Party (liberal) won 13 seats, and the Progressive Conservative Party (conservative) won 12 seats. Jean Chretien of the Liberal Party entered his third term as Prime Minister.

A significant body of opinion in the province of Quebec (represented by the party that governs the province) continues to maintain that Quebec has the right to withdraw from the Confederation if that decision proves to be the democratically expressed will of the residents of Quebec. The Supreme Court ruled in 1998 that a unilateral declaration of independence would be illegal, but that the Federal Government and other provinces would be obligated to negotiate Quebec's separation if a clear majority of Quebecers voted to change their relationship with Canada on the basis of a clearly phrased referendum question. However, there is no expectation of another referendum on sovereignty before 2005.

There are no laws limiting the participation of women in political life; however, the percentage of women in government and politics does not correspond to their percentage of the population. In the Parliament, 62 of 301 members in the House of Commons are women, and 33 of 105 senators are women. Women held 10 seats in the 36-person Cabinet. In 1999 a woman was appointed for the first time as Chief Justice of the Supreme Court. The Governor General is a woman.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Charter of Rights and Freedoms provides for equal benefits and protection of the law regardless of race, national or ethnic origin, color, religion, sex, age, or mental or physical disability. These rights generally are respected in practice; however, there were some complaints of discrimination in this multicultural society.

Women.—The law prohibits violence against women, including spousal abuse; however, it remained a problem. The Government's publication on family violence statistics for 1999 indicated that an estimated 8 percent of women (and 7 percent of men) who were married or living in a common-law relationship during the previous 5-year period experienced some type of violence committed by their partner on at least one occasion. The economic costs of violence against women are estimated to be \$2.7 billion (Can \$4.2 billion). Services available to abused women have

increased significantly over the past 2 decades, and there were 508 shelters for abused women across the country in 2000.

A total of 24,049 cases of sexual assault were reported in 2000, an increase of 177 cases from 1999. The courts consider such cases seriously and those convicted of sexual assault face up to 10 years in prison. Cases involving weapons, threats, wounding, or endangerment of life carry longer sentences, up to life imprisonment.

Prostitution is legal, but pimping and operating, being found in, or working in a brothel are not. Living (wholly or partially) on the earnings of prostitution of others is illegal. Communicating in public for the purpose of prostitution (solicitation) is also illegal, but is considered a lesser offense than the other offenses related to prostitution.

Women were trafficked for purposes of sexual exploitation (see Section 6.f.).

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. The law prohibits sexual harassment, and the Government generally enforces this provision. Women continued to complain of harassment in the armed forces, and the Government has established mechanisms to try to resolve complaints (see Section 1.c.).

Women are well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights equal to those of men. Women head over 85 percent of single-parent households.

Children.—The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade 13 and is compulsory nationwide through age 15 or 16, depending on the province. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

There is no societal pattern of abuse of children. Changes to the law in 1997 strengthened tools to combat child prostitution and prohibited female genital mutilation, which is condemned widely by international health experts as damaging to both physical and psychological health.

Les Enfants de Duplessis, a private group of 250 of the 1,000 to 1,500 citizens who as orphan children were diagnosed falsely as retarded and psychotic, and illegally interned in mental institutions between the 1930's and 1950's, continued to seek compensation from the provincial and federal governments. They charge that the Government is responsible for the abuse that they received in the Catholic Church-run institutions, including beatings, electric shock treatment, and sexual abuse. In 1999 they formed a committee to seek restitution for the abuse suffered. In May 2000, the Catholic Church announced that it would participate in a "compassion fund," but would not issue a formal apology or admit fault in the cases. In June 2000, Les Enfants de Duplessis voted to accept the sum of about \$26 million (Can \$37 million) offered by the Quebec government. A small group of orphans is fighting to have that amount increased by religious orders and the Federal Government. Nonetheless, a general consensus among the media, NGO's, and civil society considered the offer fair and the case closed.

Children were trafficked for purposes of sexual exploitation (see Section 6.f.).

Persons with Disabilities.—There is no legal discrimination against persons with disabilities in employment, education, or in the provision of other state services. Nevertheless, the Government continued to receive numerous complaints regarding societal discrimination against persons with disabilities and has instituted programs to discourage such discrimination. Persons with disabilities are underrepresented in the work force; they make up 2.7 percent of the federally regulated private sector work force, while those capable of working total 6.5 percent of the population. The law mandates access to buildings for persons with disabilities, and for the most part the Government enforces these provisions.

The law provides a variety of protections and rights for the disabled and specifically prohibits discrimination against persons with disabilities in employment, education, or in the provision of public services. Sexual exploitation of persons with disabilities in situations of dependency is a criminal offense. The law requires employers and service providers to accommodate special needs of persons with disabilities, unless it constitutes an undue hardship, and mandates access to buildings for the disabled. The Government has instituted programs to help the persons with disabilities join the work force, but they continued to experience more difficulties in getting and retaining employment than those without disabilities.

Indigenous People.—The treatment of aboriginal people continued to be one of the most important human rights problems facing the country. The Constitution recognizes three different groups of aboriginals: Indians (generally called First Nations), Inuit (Eskimos), and Metis (persons of mixed Indian-European ancestry).

Aboriginals make up approximately 2.8 percent of the population. In the country's three territories, aboriginals constitute 20 percent of Yukon, 62 percent of Northwest Territories, and 84 percent of Nunavut. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension on reserves. Aboriginal persons remain underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

The Charter of Rights and Freedoms specifically protects aboriginal rights, including those established by historical land claims settlements; aboriginal rights also are recognized in the Constitution and by the courts. Historical treaties with native groups in eastern Canada form the basis for the Federal Government's policies there, but the antiquated language and uncertain intent have resulted in extensive legal challenges to the Government's interpretation of treaty rights. Native groups in the west that never signed historical treaties continue to claim land and resources, and many continue to seek legal resolution of outstanding issues. As a result, the evolution of the Federal Government's policy toward aboriginal rights, particularly land claims, has been linked closely to legal challenges, including 45 Supreme Court decisions.

In 1998 the Government established the Aboriginal Action Plan, a "long-term, broad-based" policy approach to promote the quality of life of aboriginal people and promote self-sufficiency. According to Indian and Northern Affairs Canada, the Government budgeted \$4.7 billion (Can \$7 billion) for aboriginal programs in 2001-02. This money is intended to ensure that aboriginal persons have access to basic services (education, housing, water, sewage, health, and social) comparable to those provided to other citizens through provincial, municipal, and territorial governments.

Since 1999 the authorities have settled 16 specific claims, and 70 comprehensive land claims have been negotiated across the country. The Federal Government continued to be involved in self-government negotiations with over 350 First Nations, and several self-government agreements-in-principle (agreed upon by negotiators) and a few final agreements were in advanced stages of negotiations at year's end. Professional development and fiscal accountability projects further support indigenous self-governance.

In response to court decisions over the past few years, the Government continues to work at resolving a variety of issues, including fishing rights in Atlantic Canada. Disputes over native fishing rights in Atlantic Canada continued after a 1999 Supreme Court ruling on the Marshall case which interpreted centuries-old treaties to allow First Nations to earn a moderate livelihood from natural resources, in compliance with government regulations that promote conservation and protect others who depend on the same resource. The Federal Government negotiated interim fishing agreements with 30 of the 34 native communities in Atlantic Canada, but the Burnt Church First Nation in New Brunswick and 3 other groups in Nova Scotia have refused to sign the interim agreements and have been accused of contravening federal regulations by fishing for lobster out-of-season. In September nonaboriginal commercial herring fishermen protesting the closing of their own fisheries took their boats into an area where Burnt Church fishermen were engaged in a food fishery. The nonaboriginal fishermen sparked violence by cutting Burnt Church lobster trap lines and damaging aboriginal property. Other test cases that involve members of aboriginal groups being tried on charges of illegally harvesting timber on Crown land continued in the court systems in New Brunswick and Nova Scotia. Court cases also continue in Quebec over timber resources.

In 2000 the Federal and British Columbia governments concluded a treaty with the Nisga'a people who live in northwestern British Columbia. The treaty gave the Nisga'a control over 765 square miles of tribal lands, a cash settlement, fishing and timber-cutting rights, and certain rights of self-government. The treaty ended a range of special tax breaks and other benefits available under previous arrangements. The treaty was ratified by the Nisga'a people in 1998 and by the provincial legislature in 1999. It was debated and passed by Parliament in 1999. Although the British Columbia legislature ratified the treaty, two groups expressed their intention to challenge the treaty in court. These legal challenges include one from the Liberal Party that contends that the treaty should have been submitted to a referendum and one from the Gitanyow, an indigenous group located near the Nisga'a, who contend that the treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a. At year's end, the court of appeals had ruled against the party challenge and held its leaders personally responsible for court costs; the Gitanyow case still was pending in the courts.

Quebec's Indian people remain overwhelmingly opposed to separation from Canada and deeply distrust the separatist government of the province. Despite the Que-

bec Premier's recent overtures to the leaders of the Cree and Inuit nations, surveys indicate that most of Quebec's 60,000 Indians would favor partition of the province in the event of Quebec's separation from Canada. Indian leaders maintain that a sovereign Quebec would treat Indians as another ethnic minority instead of as sovereign nations within the territory of the province. To address these sentiments and respond to a pending lawsuit, in 1998 the Quebec government agreed with the Cree and Mohawk tribes to initiate negotiations regarding longstanding grievances over timber resources, public rights of way on tribal lands, and management of development in the James Bay region. In 1999 Quebec gave the Mohawks increased fiscal rights and powers, and the first summit in 11 years between Quebec's First Nations and the provincial government was held to establish a permanent policy forum to resolve ongoing issues. During 1999 the Government focused on negotiations over a commission to set up a political entity (Nunavik) for Quebec's Inuit. The commission, in accordance with an agreement signed in 1999, has Inuit, Quebec, and federal representatives. In September 2000, the James Bay Crees challenged the authority of the Nunavik Commission on the basis of overlapping land claims. The Commission presented its final report in March, recommending a new form of autonomous government for Nunavik specially designed to protect the Inuit language and culture.

In 1999 representatives of the Government of Newfoundland and Labrador, the Federal Government, and the Labrador Inuit Association initialed a land claims agreement for the Inuit. The plan provides for land, water rights, self-government, and an economic development plan that includes sharing revenues from subsurface developments.

Religious Minorities.—There were a number of reports of harassment of religious minorities.

The League for Human Rights of B'nai Brith in Canada reported that there were 280 incidents of anti-Semitism in 2000—a 5 percent increase from 1999. Harassment comprised 192 of the incidents, a decrease of 6 percent over 1999. However, the League stressed that many of those incidents were far more violent than in past years. Vandalism increased by 42 percent. Most anti-Semitic incidents occurred in Toronto and Montreal. The League continues to express concern over the growth of anti-Semitic activity on the Internet (see Section 2.a.).

In July Ontario authorities removed seven children from a family belonging to the Christian fundamentalist Church of God (affiliated with the Mennonites) in Aylmer, Ontario. Provincial authorities said that the children showed signs of heavy corporal punishment; church practices advocated the use of belts and sticks in disciplining children. Provincial authorities had warned the Church of God for several months previously that such severe corporal punishment could constitute child abuse. Over 100 Church of God members subsequently fled the country, fearing that more children might be taken from their families. Provincial authorities eventually returned the original children to their home, but the children remain under close provincial supervision.

In May a Muslim chaplain filed suit in federal court against an Ontario provincial judge who ejected him from the courtroom in 1993 for wearing a Muslim cap. The chaplain's initial complaints filed with the provincial and federal human rights commissions were dismissed because the law gives judges immunity from human rights laws. In November the federal district court dismissed the case, and in December the chaplain filed an appeal.

Following the September 11 terrorist attacks in the United States, anti-Muslim sentiment rose in communities across the country. Incidents included harassment and vandalism such as beatings, threats, property damage, and attempted firebombing of a mosque. The Government strongly and publicly criticized such sentiments or actions and urged the population to refrain from prejudice against Muslims or other persons on the basis of their religious beliefs, ethnic heritage, or cultural differences. Police forces across the country actively investigated and discouraged anti-Muslim actions.

National/Racial/Ethnic Minorities.—The narrow defeat of the 1995 Quebec sovereignty referendum left unresolved the concerns of French-speaking Quebecers about their minority status in Canada, while sharpening the concerns of English-speaking Quebecers about their minority status in the province (see Section 3). In August provincial Premier and separatist Parti Quebecois leader Bernard Landry said that the province would hold another referendum on sovereignty in 2005.

Some English-speaking and aboriginal groups in Quebec assert the right to keep parts of Quebec in Canada in the event that Quebec declares independence. Despite personal meetings and other overtures by Quebec's Premier to aboriginals and the English-speaking community, both groups remain distrustful of the separatist gov-

ernment of Quebec. Many members of these communities fear that their rights would be infringed by a sovereign Quebec.

The Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities. Despite the federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of the country generally must live and work in the language of the majority.

The English-speaking minority of Quebec, representing 9 percent of the population of the province and 16 percent of the population of the city of Montreal, continues to protest restrictions placed on English-language use. English speakers also expressed concern over the increasing scarceness of health services and public schooling in their language. Quebec's language law also stipulates that French is the working language of most businesses and must predominate in bilingual commercial signage.

Quebec's language law restricts access to publicly funded, English language schools through grade 11 to children whose parents were educated in English in Canada and to short-term residents. The Quebec courts heard two cases challenging this law. In February the Quebec Court of Appeal refused to widen access to Quebec's English-language schools. Another case was brought by a group whose native tongue is neither French nor English, who alleged that the law restricting English-language schools to children whose parents were educated in English in Canada is discriminatory. In December 2000, a Superior Court ruled that the Charter of Rights and Freedoms takes precedence over Quebec's language law, but in January the Quebec Court of Appeal put the previous ruling on hold, and the case finally was dropped.

In October 2000, three coffeehouses with English names were firebombed, allegedly in an attempt to force them to change their names to French. In July a court convicted a man (who was associated with a group that aims to eliminate the use of English in Quebec) of the bombings and sentenced him to 6 months in jail for weapons' possession and 1 month for the firebombing.

In November 2000, the Quebec government established an Estates General Commission of Inquiry (the Lacrosse Commission) on the status of the French language in Quebec. Public hearings were held across the province and the Commission released its final report in August. The report recommended improving the instruction and quality of French, English, and any third language; that Quebec petition the Federal Government for power to choose all of its immigrants; that safeguards be institutionalized for the anglophone minority; and that a Quebec citizenship be granted.

Provinces other than Quebec often lack adequate French-language schooling and health services, which is of concern to local francophones, although French-language schools and French immersion programs are reported to be thriving in all three prairie provinces.

Section 6. Worker Rights

a. The Right of Association.—Except for members of the armed forces and some police, workers in both the public and private sectors have the right to associate freely. The Labor Code protects these rights for all employees under federal jurisdiction, while provincial legislation protects all other organized workers.

Trade unions are independent of the Government. Of the civilian labor force, approximately 29.5 percent is unionized.

All workers have the right to strike, except for those in the public sector who provide essential services. The law prohibits employer retribution against strikers and union leaders, and the Government generally enforces this provision in practice.

Labor action, including strikes, occurred throughout the country during the year. Significant strikes during the year included: 13,000 members of the Canadian Union of Public Employees (janitors, secretaries, bus drivers, language teachers, and special education teachers in Toronto's 565 public schools); health care workers, especially nurses in British Columbia and Nova Scotia; and municipal service workers in Alberta and British Columbia. On August 16, the British Columbia provincial assembly passed a bill making education an essential service and limiting the ability of teachers and school workers to strike. The legislation allows teachers and support workers to strike but requires that all students, regardless of age or grade, continue to receive classroom instruction, even if it is from a minimal staff, during any work stoppage.

Unions are free to affiliate with international organizations.

b. The Right to Organize and Bargain Collectively.—Workers in both the public (except for some police) and the private sectors have the right to organize and bargain collectively. While the law protects collective bargaining, there are limitations,

which vary from province to province, for some public sector workers providing essential services.

The law prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities. There are effective mechanisms for resolving complaints and obtaining redress.

All labor unions have full access to mediation, arbitration, and the judicial system.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced labor, including that performed by children, and it generally does not occur; however, women and children were trafficked for the purpose of sexual exploitation (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—Child labor legislation varies from province to province. The Federal Government does not employ youths under 17 years of age while school is in session. Most provinces prohibit children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. These prohibitions are enforced effectively through inspections conducted by the federal and provincial labor ministries.

The Government prohibits forced and bonded child labor and generally enforces this prohibition effectively; however, children were trafficked for the purpose of sexual exploitation (see Section 6.f.).

e. Acceptable Conditions of Work.—Standard work hours vary from province to province, but in all provinces the limit is 40 or 48 a week, with at least 24 hours of rest.

Minimum wage rates are set in each province and territory, and range from \$3.54 to \$4.64 (Can \$5.50 to Can \$7.20) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage does not provide a decent standard of living for a worker and family. A family whose only employed member earns the minimum wage would be considered below the poverty line.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitor and enforce these standards. Federal, provincial, and territorial laws protect the right of workers with “reasonable cause” to refuse dangerous work and to remove themselves from hazardous work conditions.

f. Trafficking in Persons.—The law does not prohibit trafficking in persons, although the Government prosecutes such offenses as violations of immigration policies; trafficking in women and children is a problem. The country is primarily a transit and destination point for trafficking in persons into sexual exploitation and involuntary servitude. There are no overall estimates as to the extent of the problem. There have been several widely reported cases of smuggling and trafficking, including hundreds of Chinese who arrived illegally by ship in British Columbia during the summer of 1999. There are reports that Honduran boys were trafficked to Canada for the purpose of drug trafficking. There are also reports that Mexican and Haitian men and women are trafficked to Canada.

Vancouver and Toronto serve as hubs for organized crime groups that traffic in persons, including trafficking for prostitution. East Asian crime groups have targeted Canada, and Vancouver in particular, because of lax immigration laws, benefits available to immigrants, and the proximity to the U.S. border.

Thousands of persons, including at least 15,000 Chinese, have entered Canada illegally over the last decade. These persons come primarily from East Asia (especially China and Korea; also Malaysia), Eastern Europe, Russia, Latin America (including Mexico, Honduras, and Haiti), and South Africa. Many of these illegal immigrants have paid large sums to be smuggled to the country and are indentured to their traffickers upon arrival. Almost all work at lower than minimum wage and use most of their salaries to pay down their debt at usurious interest rates. The traffickers use violence to ensure that their clients pay and that they do not inform the police. Asian women and girls who are smuggled into Canada often are forced into prostitution. Traffickers use intimidation and violence, as well as the illegal immigrants’ inability to speak English, to keep these victims from running away or informing the police.

Parliament passed the Government’s proposed Immigration Act and the Governor General signed it into law in November. Part three of the act contains a section on Human Smuggling and Trafficking, which makes such action an offense punishable by fine or imprisonment, but this section of the act had not entered into force at year’s end. The Government investigates and prosecutes cases of trafficking; however, law enforcement efforts directed at trafficking remain limited because trafficking is not yet a criminal offense. The RCMP does charge traffickers for violating

a variety of other statutes when its investigations turn up instances of trafficking. In Toronto a combined federal and local task force (Operation Almonzo), which includes Toronto police, the RCMP, immigration officials, and social services groups, specifically is devoted to investigating the trafficking of women into sexual exploitation.

In February Vancouver police picked up an 11-year-old prostitute who said that she had been kidnaped in the United States and forced to work as a prostitute. Police arrested three men in the case.

On March 23, police arrested 9 persons involved in an international trafficking ring suspected of illegally transporting about 1,200 Korean and Chinese citizens through Canada into the United States. Many of those who entered the United States illegally were women under the age of 20 and were destined to work in a position of debt bondage to restaurants, factories, and brothels.

In November Vancouver police cracked a prostitution ring, and the authorities deported 11 Malaysian women, at least half of whom said that they had been coerced into prostitution by a man who seized their passports upon arrival in the country.

In April 2000, the Toronto police and other agencies arrested hundreds of suspects as part of a continuing effort to combat trafficking in persons for sexual purposes. The task force staged 16 raids on strip clubs and arrested more than 200 men for pimping and immigration-related offenses, as well as 100 foreign women on charges of prostitution.

The Interdepartmental Working Group on Trafficking in Women, cochaired by Citizenship and Immigration Canada and Status of Women Canada, also includes officials from the Ministry of Foreign Affairs and International Trade, Human Resources Development Canada, Justice Canada, the RCMP, and the Solicitor General's office. The Canadian International Development Agency funds a variety of programs internationally to educate potential victims, assist in building legal protection, and to help eradicate poverty. The Federal Government's programs focus largely on Southeast Asia but have also started antitrafficking programs in Russia. The Government has participated in a partnership with five countries in Southeast Asia working to establish control measures and a legal framework to help stop trafficking in women for prostitution. The country also has assisted other governments in revising their criminal codes to conform to relevant international conventions.

There are no government-sponsored programs to help victims of trafficking; however, the Government funds NGO assistance programs. Victims may apply for permanent residence under the "humanitarian and compassionate" provisions of the Immigration Act. Some victims of trafficking are arrested and deported. In prostitution cases, often the prostitute instead of the customer is arrested. If the woman is in the country illegally, she may face deportation, especially after committing a crime. Local authorities to some degree lack awareness about the victims of trafficking, which is compounded by the fear many victims have of telling the authorities about the crime committed against them.

The Government supports prevention efforts in source countries through NGO's in Canada.

CHILE

Chile is a multiparty democracy with a constitution that provides for a strong executive, a bicameral legislature, and a separate judiciary. Approved by referendum in 1980 and amended in 1989, the Constitution was written under the former military government and retains certain institutional limits on popular rule. In January 2000, voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. He defeated center-right candidate Joaquin Lavín of the Alliance for Chile coalition. All three presidents elected since the country returned to democracy in 1990 have been members of the four-party "Concertación" coalition. The National Congress consists of 120 deputies and 49 senators; this includes 9 designated senators and 2 former presidents who are senators-for-life, although former President Augusto Pinochet has been suspended pending an investigation into his alleged responsibility for human rights violations. On December 16, congressional elections to choose all deputies and 18 of the 38 elected senators were held; the results narrowed the Concertación coalition's lead in the lower house from 70–50 to 63–57. In the Senate, the elections resulted in a 24–24 split between pro-Lagos legislators and the opposition. The Constitution provides for a judicial system independent of the other branches of government, and continued turnover in the court system has reduced greatly the number and influence of military-era appointees over the judiciary.

The armed forces are constitutionally subordinate to the President through an appointed civilian Minister of Defense but enjoy a large degree of legal autonomy. Most notably the President must have the concurrence of the National Security Council, which consists of military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) have primary responsibility for public order, safety, and border security. The civilian Investigations Police are responsible for criminal investigations and immigration control. Both organizations are under operational control of the Ministry of Interior. Some members of the police committed human rights abuses.

The population is estimated at approximately 15 million. In 1999 the export-led free-market economy experienced its first recession after 15 consecutive years of expansion. Economic growth for the year was 3.1 percent with inflation of 2.6 percent. Copper remained the most important export; salmon, forest products, fresh fruit, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange. Unemployment was 8.9 percent at the end of the year. The percentage of the population living below the poverty line decreased from 45 percent in 1987 to 20.6 percent in 2001. Annual per capita gross domestic product was approximately \$4,000.

The Government generally respected its citizens' human rights; however, problems remained in some areas. The most serious problems continued to be excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons are often overcrowded and antiquated. Detainees often are not advised promptly of charges against them nor granted a timely hearing before a judge. The authorities occasionally used force against protesters. Discrimination and violence against women and children continue to be problems. Indigenous people remain marginalized. A new labor code was introduced which is expected to reduce limitations on such fundamental worker rights as the right to organize and bargain collectively. Child labor is a problem in the informal economy.

During the year, the Government, primarily the judiciary, took significant steps to allow for the investigation of human rights abuses committed during the former military government and to bring those accountable in certain cases to justice. The bulk of the human rights abuses under the military regime occurred between 1973 and 1978, although a number took place after this period. In January the Defense Ministry-sponsored Human Rights Roundtable Dialog, including members of the armed services, religious groups, and human rights leaders, provided some information on the manner of death and fate of 200 persons who disappeared while in official custody during the Pinochet regime; however, military authorities were unwilling or unable to provide a full accounting for the fate of many of the over 3,000 persons who were killed and disappeared. On July 10, the Santiago Court of Appeals ruled that former president Pinochet was mentally unfit to stand trial, and temporarily suspended all legal proceedings in the Caravan of Death case against him pending an improvement in his condition. The substance of the ruling cannot be challenged, although an appeal based on what could be characterized as procedural grounds was pending before the Supreme Court at year's end.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Other Unlawful Deprivation of Life.—Unlike the previous year, there were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents; however, 26 inmates died due to a fire in a prison (see Section 1.c.).

A number of cases from previous years in which the police were accused of extrajudicial killings due to excessive use of force or mistreatment of prisoners while in custody remained under investigation or pending resolution of appeals.

There was no information available regarding the status of any investigation into the January 2000 death of Carlos Antonio Millaman Munoz, who was detained on charges of aggravated robbery. According to the Corporation for the Promotion and Defense of Human Rights of the People (CODEPU), persons who visited him at the headquarters of the Investigative Police in the Santiago suburb of La Florida reported that he was in bad physical condition and feared for his life; he was transferred to the El Salvador hospital where he died later in the day.

There was no information available regarding any investigations into the case of University of Tarapaca student Daniel Menco Prieto, whom police shot and killed during a 1999 student demonstration, or the case of Jonathan Moya Jara, whose body was found in 1999 after he allegedly had been arrested by two Carabineros.

In 1999 a court sentenced four police officers to 10 years in prison for the death of Raul Palma Salgado, who died in police custody in 1998 after police allegedly tor-

tured him. After an appeal process, their sentence was reduced by a court martial. The reduced sentence was appealed to the Supreme Court and was pending at year's end.

No new information has become available in the case of Claudia Alejandra Lopez, who was shot and killed under unclear circumstances during a 1998 demonstration in Santiago. A Santiago Appeal Court judge has been specially appointed to investigate the case of the 1989 murder of leftist leader Jecar Nehgme, which was reopened in 1999 when new evidence was discovered. The judge is one of a number of special judges who have been appointed to investigate human rights violations (see Section 1.b.). The investigation continued at year's end.

In 1998 the United Kingdom detained former President Pinochet pending resolution of a Spanish extradition request on charges of genocide and murder. In March British Home Secretary Jack Straw denied Spain's request on the basis of medical exams indicating that Pinochet was unfit mentally and physically to defend himself against the charges; Pinochet returned to Chile where he faced charges in numerous human rights cases. The investigation of the most prominent of these cases, known as the Caravan of Death, led to a Supreme Court decision in August 2000 which lifted Pinochet's parliamentary immunity. On January 30, he was indicted by Judge Guzman as the author of 57 homicides and 18 instances of kidnaping; an appeals court later reduced the charges to engaging in a cover up of the crimes. Pinochet was placed under house arrest and subsequently freed on bail. On July 10, the Santiago Court of Appeals ruled, two to one, that Pinochet was mentally unfit to defend himself against the charges; the ruling was based on psychiatric and neurological exams. The Court temporarily suspended all legal proceedings against Pinochet in the case, pending an improvement in his condition. At year's end, the lawyers acting on behalf of the families of the victims were appealing the ruling to the Supreme Court on procedural grounds. They allege that the court applied due process provisions that apply in other parts of the country, but not in Santiago (see Section 1.e.). If the ruling stands, it is likely to impede the prosecution of Pinochet in almost 300 other human rights cases in which he is named as one of the accused.

On April 4, the case of Operation Albania—the June 1987 killings of 12 Manuel Rodriguez Patriotic Front (FPMR) members—was passed to Judge Hugo Dolmestch after investigating Judge Milton Juica was named to the Supreme Court. The case involving the 1986 deaths of journalist Jose Carrasco and three others also was given to Judge Dolmestch, since the parties being charged in both cases are essentially the same and both are related to the 1986 assassination attempt on Pinochet. There are 16 former military and police officers charged with these crimes, including retired army General Hugo Salas Wenzel, as well as two civilians. All were free on bail at year's end. The case was moved out of the military court and into the civilian court in 2000.

On April 15, Argentine Judge Rodolfo Canicoba sought to extradite Pinochet and former DINA (the secret police/intelligence service during the military regime) head Manuel Contreras in the investigation of Operation Condor, an undercover operation in which several military governments in Latin America cooperated to eliminate leftist opponents. On September 5, Supreme Court Judge Domingo Kokisch denied Pinochet's extradition on the basis that Pinochet's senatorial immunity was suspended by the Supreme Court only in the Caravan of Death case but still protects him from other charges. In addition, extradition requests may not proceed when the subject has been indicted and is under investigation for crimes committed in the country. This complication likely would impede any attempts to extradite Pinochet, Contreras, and several other figures allegedly involved in the human rights abuses abroad during the military regime.

On August 27, the judge investigating the 1982 killing of labor leader Tucapel Jimenez placed the responsibility for the murder with the Office of Army Intelligence. He charged six persons as direct authors of the crime, seven others for having participated, and three for having participated in the coverup. Among those charged were four retired generals, including Brigadier General Hernan Ramirez Hald who resigned shortly after he was charged. The investigation continued at year's end.

On June 15, the Supreme Court upheld the ruling of a lower court not to reopen the case of Carmelo Soria, a Spanish citizen working for the U.N. and killed in Santiago in 1976. Soria's family continued to negotiate compensation with the Government.

On October 8, a Chilean judge ordered the preventive arrest of four retired generals and a civilian as a first step in processing their extradition for their role in the 1974 car bombing in Buenos Aires that killed former Chilean army chief Carlos Prats and his wife Sofia Cuthbert. In August the Supreme Court ruled that Pinochet continued to enjoy parliamentary immunity in this case and therefore was

not subject to extradition. The family subsequently sought the lifting of Pinochet's immunity.

In December 2000, the family of Charles Horman, whom security forces killed in Santiago in 1973, filed a criminal complaint in Santiago. The investigation into Horman's death was given to Judge Juan Guzman. On June 6, the Supreme Court denied a request by Horman's widow that responsibility for the investigation be transferred to a specially designated minister of the court. On September 13, the autonomous State Defense Council (charged with representing the interests of the state in the country's courts) voted not to become a party to the case. Judge Guzman decided not to interrogate Pinochet in the case on the grounds that he continues to have parliamentary immunity.

The August 2000 ruling by the Supreme Court lifting Pinochet's immunity in the Caravan of Death case included an opinion by the majority indicating that the Amnesty Law and the statute of limitations should be applied only after the circumstances of the crime and the guilty party has been identified. However, several justices of the Supreme Court subsequently indicated that the Court may leave the question of how to apply the Amnesty Law to the discretion of individual judges. Throughout the year, several judges (particularly in courts-martial) continued to close cases under the Amnesty Law without completing an investigation into the circumstances of the crime. The Foundation for Social Help of Christian Churches (FASIC), the CODEPU, and other human rights organizations have several denial-of-justice cases pending before the Inter-American Commission on Human Rights (IACHR) regarding previously closed disappearance and execution cases. Denial-of-justice cases based on application of the Amnesty Law also have been filed with the U.N. Commission on Human Rights (UNCHR).

b. Disappearance.—There were no reports of politically motivated disappearances. In January, through the Defense Ministry-sponsored Human Rights Roundtable Dialog, the armed forces provided information on the whereabouts of 200 persons who disappeared while in official custody during the Pinochet regime. All of the information was made public, but subsequent investigations have found that some of the information provided was inaccurate. While noting the value in having the armed forces officially acknowledge the commission of human rights abuses during the Pinochet regime, President Lagos noted that there remain over 600 cases of missing persons about whose whereabouts no information has been provided. On August 18, the Ministry of Justice provided funds to enable 9 judges to dedicate their time exclusively to cases of disappearances and to allow another 51 judges to give preference to the investigation of such cases.

Investigations of military-era detentions and disappearances of persons at Colonia Dignidad (now called "Villa Baviera"), a secretive German-speaking settlement 240 miles south of Santiago, made no further progress during the year. In 1999 investigating judge Juan Guzman issued a detention order against the 79-year-old founder of the enclave, Paul Schaefer, for the kidnaping and disappearance in 1974 of Alvaro Vallejos in the vicinity of Colonia Dignidad. Schaefer, also wanted by the authorities on other charges, remained a fugitive at year's end. In October 2000, the authorities had arrested Schaefer's deputy Gerhard Muecke in connection with Vallejos's disappearance. The Government issued an order to expel Muecke, but he must stand trial first in connection with Vallejos's disappearance and two other charges that remained under investigation at year's end. Muecke remained in custody at year's end.

In 1985 Boris Weisfeiler disappeared near Colonia Dignidad under circumstances that have yet to be fully clarified. The case was reopened at the beginning of 2000 and is among those being investigated by Judge Guzman. There were no new developments by year's end.

In 1999 the court indicted former army Sergeant Major and DINA agent Barclay Zapata ("El Troglo") in the disappearance of Jose Manuel Ramirez, who was arrested by agents of the DINA in 1974. The case remained under investigation.

Of the 1,156 persons who disappeared under the military regime, the remains of over 900 have yet to be found. The government agency in charge of the compensation program for the families of those executed or disappeared under the military regime recognizes 3,197 victims of the Pinochet era. These include 2,095 victims in which circumstances of death have been established and 1,102 cases in which the persons disappeared. Survivors of the victims receive pensions, educational benefits, and other assistance. During the year, monthly pension benefits, distributed to an average 3,441 eligible survivors (spouse, mother or father, and children), were approximately \$9.5 million (6.3 billion pesos). Since 1992, the program has distributed well over \$87 million (57.8 billion pesos). Survivors receive pensions, educational benefits, and other assistance.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution forbids the use of excessive pressure on detainees; however, the CODEPU has received reports of abuse and mistreatment by both the Carabineros and the Investigations Police. When requested by other human rights organizations or family members, CODEPU lawyers visit detainees during the interrogation and represent some suspected terrorists in court. The CODEPU continues to investigate alleged use of excessive force against detainees. The Minister of Interior asks the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often do not result in arrests, due in part to the reluctance of judges to pursue the issue vigorously.

The law provides that if a member of the police force uses “torture or unlawful coercion,” either physical or mental, or orders them to be applied, or commits them against a person under arrest or detention, the officer would be sentenced to imprisonment. Officers who know about the abuse and have the “necessary power and authority” to prevent or stop it also would be considered accessories to the crime if they fail to do so. The CODEPU has found that this law had an important impact on the conduct of the Investigative Police, but less so in the case of the Carabineros.

In August the Latin American Faculty of Social Sciences (FLACSO) published a report on complaints filed in the courts of police violence in the country. The report indicates that reports of police violence which have come before the courts have more than doubled over the last decade. The author speculates that some, but not all, of the increase may be attributable to an increased willingness on the part of citizens to report police mistreatment and the rise in arrests for certain types of crimes.

Unlike previous years, no new information has become available regarding the mistreatment of military conscripts during the year.

During the year, there were increasing instances of violent confrontations between radical Mapuche groups and local landowners, logging companies, and government authorities in the southern part of the country (see Section 5). The actions took the form of protests and, occasionally, instances of rock-throwing, land occupations, burning of crops, and short-term seizures of government offices.

Police occasionally used force against protesters (see Section 2.b.).

During the year, courses in human rights became part of the core curriculum in police academies for both rank and file police and officers.

Prisons are often overcrowded and antiquated. On May 20, a fire broke out in the prison in Iquique that led to the death of 26 prisoners. A police investigation into the circumstances surrounding the fire and the subsequent response by prison officials continued at year’s end. The Ministry of Justice announced a \$5 million (3 billion pesos) program in all prisons to develop contingency planning for emergencies and prevent such incidents from occurring in the future.

Overcrowding in prisons continues to be a focus of concern within the Government. The Ministry of Justice stated that in mid-October there were 34,335 prisoners in prisons designed to lodge 23,025 inmates. On October 17, the Ministry of Justice opened bids on 3 new prisons, to be completed in December 2003 and designed initially to house 4,800 prisoners. These prisons are part of a plan to construct 10 new prisons in the next several years, to house an initial population of 16,000 prisoners. Even with this ambitious construction program, the growing prison population is projected to continue to exceed the space available. Food meets minimal nutritional needs, and prisoners may supplement the diet by buying food. Those with sufficient funds often can rent space in a better wing of the prison.

Although most reports state that the guards generally behave responsibly and do not mistreat prisoners, prisoners have complained to CODEPU about beatings, and the courts have received numerous complaints of mistreatment of prisoners. Prison guards have been accused of using excessive force to stop attempted prison breaks. During the year, two prison guards were convicted of abusing prisoners in the “Alfa” unit of the Colina high security prison. Pretrial detainees generally are not held with convicted prisoners. Statistics on complaints of mistreatment and reliable reporting of such instances during the year were not available.

The CODEPU is particularly concerned about the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental deficiencies who often do not receive adequate medical attention.

Women generally are housed in separate facilities, which tend to be less crowded and with somewhat better conditions than men’s prisons.

By law, juvenile offenders (those under the age of 18) are segregated from adult prisoners. According to the latest available figures, there were 422 minors in adult prisons at the end of 1998. The National Minors Service began construction of two juvenile detention centers during the year and two more are planned or under consideration for 2002.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The authorities generally respect constitutional provisions for arrest and detention; however, detainees often are not advised promptly of charges against them nor granted a timely hearing before a judge. The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. The law does not permit a judge to deny such access; police authorities generally observe these requirements.

In practice many detainees are not advised promptly of charges against them, and they are not granted a timely hearing before a judge. The most recent statistics available showed that at the end of 1999, 8 percent of the general prison population of 24,791 was under investigation but not charged with a crime; 45 percent were charged with an offense and were awaiting trial or had been convicted and were awaiting sentencing; and 48 percent were serving sentences.

The law requires police to inform those detained of their rights, to expedite notification of the detention to family members, and eliminates the ability of police to demand identification from or stop persons based solely on suspicion. The law also prohibits physical abuse by police against detained persons (see Section 1.c.). The Constitution allows judges to set bail.

There were no cases of forced exile.

An amnesty law that went into effect on July 19 allows for the commutation of sentences for invalids suffering a grave and incurable illness that prevents them from moving about by their own means. In the case of those convicted of crimes of terrorism, their sentence is to be commuted to exile if another country agrees to accept them.

e. Denial of Fair Public Trial.—The Constitution provides for a judicial system independent of the other branches of government, and continued turnover in the court system has reduced greatly the number and influence of military-era appointees over the judiciary.

Cases decided in the lower courts can be referred to appeals courts and ultimately to the Supreme Court. Criminal court judges are appointed for life. Constitutional reforms set 75 as the age limit for Supreme Court justices, gave the Senate the right to approve or disapprove presidential nominations to the Court, and increased court membership from 17 to 21. Of the 21 justices on the Supreme Court, 2 were appointed under the military regime. The Supreme Court prepares lists of nominees for the Supreme Court and appeals courts, from which the President makes nominations. The Supreme Court continues to work with the other branches of government on broad judicial reform.

If formal charges are filed in civilian courts against a member of the military, including the Carabineros the military prosecutor asks for jurisdiction, which the Supreme Court sometimes has granted. This is of particular consequence in human rights cases from the period covered by the Amnesty Law. In addition, military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Rulings by military tribunals may be appealed to the Supreme Court. Persons accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer are brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts (see section 2.a.). They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court) and appeals ultimately may be heard by the Supreme Court. The primary difference in the middle court system is that the initial investigation and charges are brought by a military prosecutor and the first instance of appeal is in a Court Martial, composed of two civilian and three military judges.

A 1997 judicial reform law created the post of Attorney General, with a 10-year term, and a related ministry office that is expected to be in full operation by 2002. An office of Public Defender also was established to provide professional legal counsel to anyone who should seek such assistance (see Section 1.d.). The judicial reform law, which applies to criminal cases, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges and magistrates the narrower function of judging the merits of evidence presented to them. Training and administrative setup began in 1999, and implementation began in December 2000, with oral trials in 2 of the 13 political regions. In October three additional regions began implementing the reform. Initial reports indicate that the reform has resulted in a more transparent process, greater respect for defendants' rights, and speedier trials.

The preexisting criminal justice system does not provide for trial by jury. In those regions where the judicial reform law has yet to be implemented, criminal proceedings are inquisitorial rather than adversarial. The Constitution provides for the right to legal counsel, but indigent defendants, who account for the majority of the cases, have not always received effective legal representation. They are usually represented by someone from the Government's legal assistance corporation, often a law student finishing his/her studies and doing a mandatory internship. On occasion, the court may appoint a lawyer.

There were no reports of political prisoners, although inmates in Santiago's maximum-security prison who have been convicted of terrorist acts routinely claim to be political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respects these prohibitions in practice. A 1995 privacy law bars obtaining information by undisclosed taping, telephone intercepts, and other surreptitious means, as well as the dissemination of such information, except by judicial order in narcotics-related cases.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects the rights in practice. Human rights groups have criticized the existence and application of laws that allow government officials to prosecute journalists who insult or criticize them; the Government revoked one such law during the year.

The press maintains its independence, criticizes the Government, and covers issues sensitive to the military, including human rights cases.

On May 19, President Lagos signed a law on freedom of the press that eliminated a provision under the State Security Law of 1958 that made it a criminal offense to besmirch the honor of state institutions and their members and symbols, such as the Congress, the Supreme Court, the military services, the flag, and the President. Before its revocation, individual government officials had occasionally invoked the provision. Military courts have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings may be appealed to the Supreme Court (see Section 1.e.). As a result of the new press law, charges against journalist Alejandra Matus were dropped and she was able to return to the country without fear of arrest. Her once-banned book, "The Black Book of Chilean Justice," was allowed to circulate freely and confiscated copies were returned to the publisher and bookstores.

Under the new press law, the courts also absolved journalist Paula Afani Saud, who was charged with breaching the secrecy of a criminal investigation when she wrote articles in 1998 about an investigation by authorities into narcotics trafficking and money laundering. Afani refused to identify her sources for information contained in the articles and claimed that the subsequent charges brought against her violated the public's right of access to information and counteracted a government initiative to protect the confidentiality of journalist's sources.

Despite the new law, the Penal Code still prohibits insulting state institutions such as the Presidency, as well as legislative and judicial bodies. In December the President of the Supreme Court brought charges against a talk show participant who, commenting on the case of a woman who spent 3 years in prison for a crime for which she ultimately was absolved, accused the justice system of being immoral, cowardly, and corrupt. He was briefly imprisoned and released on bail.

In December the President of the State Defense Council brought private libel charges against *El Mercurio* for criticism of her performance of official duties and the suggestion that she resign. She had to bring charges on a private basis because the State Defense Council is not one of the institutions covered against libel in the Penal Code.

A 1996 privacy law set penalties for those who infringe on the private and public life of individuals and their families; however, the privacy law has never been applied to the media.

Two major media groups control most of the print media, which are largely independent of the Government. The State is the majority owner of *La Nacion* newspaper, but its editorial content is not under direct government control. Investigative journalism is practiced infrequently for both financial and political reasons; however, electronic newspapers are beginning to include such stories more frequently.

The broadcast media also are largely independent of government direct influence. The Television Nacional network is state-owned but not under direct government control. It receives no government subsidy and is self-financing through commercial advertising. It is editorially independent and is governed by a board of directors ap-

pointed by the President and approved by the Senate. Members reflect various political viewpoints, and the board encourages the expression of varied opinions over the network.

The National Television Council (CNT), created by legislation in 1989 and supported with government funding, is charged with assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role is to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent or to have obscene language or sexually explicit scenes may be shown only after 10 p.m. when "family viewing hours" end. In practice, the ever-increasing volume of programming makes the CNT's job all but impossible. The CNT issues occasional warnings to networks and cable providers and sometimes obliges them to postpone the showing of certain films until after 10 p.m. It also occasionally levies fines. Debate continued over the CNT's role during the year.

On July 11, the Congress approved a constitutional reform designed to put an end to film censorship and established a film classification system to take its place. Although film censorship technically is not scheduled to end until the new classification system is up and running, no films were banned during the year. Following a February 10 ruling criticizing the Supreme Court's decision to ban the exhibition of the film "The Last Temptation of Christ," on December 8, the Inter-American Court of Human Rights gave the Government 60 days to explain what steps had been taken to end censorship and allow exhibition of the film.

The courts may prohibit media coverage of legal cases in progress but do so rarely. The press has begun using foreign Internet web sites to publish articles when gag orders are issued. The Government does not restrict use of the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right to assemble peacefully, and the Government generally respects this right in practice; however, police occasionally used force against demonstrators.

On March 17, riot control police used water cannons, tear gas, and horses to end an unauthorized march of 500–600 demonstrators who were protesting the 42nd annual meeting of the Board of Governors of the Inter-American Development Bank. Fifteen protesters were arrested. No injuries were reported. Three days later, police used water cannons and tear gas to disperse 200 protesting students at Metropolitan University; students threw rocks and molotov cocktails at the police. Between 20 and 60 persons were detained.

On July 9, approximately 300 persons in Santiago's main square protested a court ruling in the case against former President Pinochet (see Section 1.a.). The police used water cannons on the protesters after they attacked a bus carrying military cadets. Six persons were detained.

On July 25, police used water cannons on violent protesters in Temuco; 50 persons were injured, including 14 policemen. The authorities detained 127 persons and charged 6 with assault on police officers (see Section 5).

The Constitution provides for the right of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Church and state are officially separate; however, the Roman Catholic Church continues to receive some preferential treatment. All denominations practice their faiths without restriction.

A 1999 law on religion, designed to bring other religious entities in line with the legal status enjoyed by the Catholic Church, went into effect in March 2000. The new law bestows the same legal status that the Catholic Church previously enjoyed upon all other faiths. The new religion law removed the ability of the State to dissolve religious entities by decree. Instead, this only can occur after a judicial review begun by a complaint filed by the autonomous State Defense Council.

Many of the approximately 2 million Protestants, who represent about 12 percent of the population according to the latest census (1992), assert that the Government has discriminated against them. They cite the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools. Military recruits, whatever their religion, are required at times to attend Catholic events involving their unit. The new law grants other religions the right to have chaplains in public hospitals, prisons, and military units. On December 13, President Lagos designated Methodist Bishop Neftali Aravena as copastor for the chapel located in the presidential palace. Aravena is the first non-Catholic pastor assigned to the chapel in the Presidential Palace.

On July 17, the President promulgated new regulations reinforcing a prisoner's right freely to profess the religion of his or her choice. The regulations require pris-

ons to develop areas for worship and enlist Protestant and Catholic chaplains to hold services. As much as 70 percent of the prison population is estimated to engage in religious activities, primarily evangelical or Catholic.

Schools are required to offer religious education twice a week through middle school; enrollment in religious classes is optional for students. It is mandatory to teach the creed requested by parents, although enforcement is sometimes lax. Instruction is predominantly in the Roman Catholic faith.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice. In order for minor children to leave the country, either alone or with only one of their parents, they must have notarized permission from the nonaccompanying parent(s).

The law includes provisions for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum has not arisen.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens 18 years of age and over. In January 2000, voters elected Ricardo Lagos, of the Socialist Party, as president in a free and fair runoff election. He defeated center-right candidate Joaquin Lavín of the Alliance for Chile coalition. Lagos is a member of the center-left Concertación Coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party.

The legislative branch, with the exception of 11 nonelected senators among the 49 members of the upper house, is elected freely and is independent from the executive branch. On December 16, free and fair congressional elections were held for all 120 seats in the lower house and 18 of the 38 elected seats in the Senate. The elections resulted in a 24–24 split between pro-Lagos senators and those of the opposition and narrowed the Concertación coalition's lead in the lower house from 70–50 to 63–57.

The Government still operates under some political restraints that the military regime imposed. Under the 1980 Constitution, various national institutions—including the President, the Supreme Court, and the National Security Council (the latter acting on nominations by the armed forces)—appoint an additional nine Senators (beyond those elected) to 8-year terms. In addition, former presidents Pinochet and Frei exercised their option to become senators-for-life. Pinochet has been suspended pending an investigation into his alleged responsibility for human rights violations (see Section 1.a.).

The former military government wrote the 1980 Constitution, and amended it slightly in 1989 after losing a referendum on whether General Pinochet should stay in office as president. The Constitution provides for a strong presidency and a legislative branch with limited powers. It includes provisions designed to protect the interests of the military and places limits on majority rule. These provisions include limitations on the President's right to remove the commanders in chief of the three armed services, and the Carabineros, certain types of legislation that require supermajorities, and the provision for nonelected senators. In January the IACHR issued a resolution criticizing the existence of designated senators and senators-for-life and urged the Government to end the practice. In October 2000, a Senate Commission (including two designated Senators) unanimously had approved a proposal that would abolish these positions starting in 2006; however, at year's end, Congress had not passed legislation codifying this and other proposals for constitutional reform.

Women have the right to vote and are active in all levels of political life, including grassroots movements. Although women are a majority of registered voters and of those who actually cast ballots, the percentage of women in government and politics does not correspond to their percentage of the population. There are 15 women among the 120 deputies, 2 women in the 49-seat Senate, and 5 women among the 16 cabinet ministers. In October President Lagos appointed the first woman ever to serve as one of the 21 justices of the Supreme Court.

The approximately 1.2 million indigenous people have the legal right to participate freely in the political process, although relatively few are active politically. The

one member of Congress of indigenous descent chose not to run for reelection in the December elections.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several human rights NGO's are active; however, many are facing difficulties, due to limited sources of funding. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. The FASIC continues to be active on the full range of human rights issues. The CODEPU and the Corporation to Defend the Rights of Juveniles (CODEJU) greatly reduced their scope of activity during the year. The Government cooperates with domestic NGO's efforts to investigate current accusations of human rights violations. Many international NGO's also follow human rights issues closely.

On May 4, the Minister of Interior created an advisory council to oversee a new autonomous state agency created to protect and promote human rights. According to the director of the program, the agency is expected to help the Legal Medical Service identify the remains of those who disappeared during the Pinochet regime; cooperate with the judiciary in designating special judges to investigate disappearances; and, through the Ministry of Defense, work with the armed forces to obtain more information (see Section 1.b.). Both the council and the agency were active by the year's end. On May 9, President Lagos signed a decree creating a Council for the Defense of Citizens which was active by year's end; however, it is unclear whether it was designed to receive complaints about human rights abuses by government officials and agencies.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equality before the law and the Government generally respects these provisions. In 1999 Congress amended the Constitution to emphasize the principle of equality between men and women and now states that "persons are born free and equal in their dignity and rights." The new Labor Code prohibits discrimination based on race, color, sex, age, marriage status, union membership, religion, political opinion, nationality, national origin, or social status (see Section 6.a.); however, such discrimination occurs in practice.

Women.—Serious problems affecting women include sexual and domestic violence. The public is becoming increasingly aware of the extent of physical abuse of women. During the year, the National Women's Service (SERNAM), which combats discrimination against women, conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities. A 1994 law specifically prohibits violence within the family. A study done in July by the University of Chile indicates that over half the women in the country have experienced violence in their relationship with their partner. The study calculates that 34 percent of women have been subject to physical violence (of which 14.9 percent was sexual violence) and another 16.3 percent have suffered psychological violence. Since the law on intrafamily violence went into effect, the number of cases presented in the courts has increased from 1,419 in 1994 to 73,559 in 1999. In July SERNAM and over 70 NGO's initiated a campaign that included prominently displayed posters and other activities designed to increase public awareness of the problem of violence against women and reduce its incidence.

The courts may order counseling for those involved in intrafamily violence. At the end of 2000, there were 12 government and 8 private centers to attend to victims of intrafamily violence; the Government opened 5 additional centers during the year.

In 1999 a law took effect increasing the penalties for sexual abuse. The legislation includes clauses to facilitate proof of the crime and to protect the privacy and safety of the person making the charge. The Citizens' Peace Foundation indicated that there were 1,250 cases of rape reported to the police in 2000, 1,297 in 1999, and 1,052 in 1998. Experts believe that a majority of rape cases go unreported.

Adult prostitution is not legal nor is it expressly illegal. Police habitually round up prostitutes (usually as a result of complaints by residents of the neighborhood) and accuse them of "offenses against morality" which can lead to a \$75 (50,000 pesos) fine or 5 days in prison.

There are no laws against sexual harassment, although it is generally recognized as a problem.

Legal distinctions between the sexes still exist. The law permits legal separation but not divorce, so those who wish to remarry must seek annulments. Since annulment implies that a marriage never existed under the law, former spouses are left with little recourse for financial support. A 1994 law created conjugal property as

an option in a marriage, but some women saw this as a disadvantage, since the law on separate property (which still exists) gives women the right to one-half their husbands' assets but gives husbands no rights to assets of the wife. In the face of heavy opposition from the Catholic Church, the Chamber of Deputies approved a divorce bill in 1997; the bill faces Senate opposition but was still on the legislative agenda at year's end.

A July SERNAM study found that the average earnings of women are 68.2 percent of those of male heads of household. Women with no schooling averaged a salary that was 81.3 percent that of their male counterparts. The minimum wage for domestic helpers (who are thought to number 300,000 in what is probably the largest single category of working women) is only 75 percent of the standard minimum wage (see Section 6.e.). Women with university training averaged 53.4 percent as much as their male counterparts. The Labor Code provides specific benefits for pregnant workers and recent mothers; these also apply to domestic workers. Employers do not have the right to ask women to take pregnancy tests prior to hiring them, although the La Morada Corporation for Women has received reports that the practice continues in some companies.

Children.—The Government provides free education through high school; education is compulsory from first through eighth grade.

Violence against children is a serious problem, although it appears to be declining. A survey of 8th grade students by UNICEF comparing the incidence of mistreatment in the years 1994 and 2000 showed that in 1994, 63 percent of children had been subject to some sort of physical violence compared to 54 percent at the end of the period. During the same period, those having suffered some sort of serious physical violence from their parents had fallen from 34 percent to 25 percent. Violence by the mother (21.3 percent) was almost twice as frequent as violence by the father (11.9 percent), and violence in low-income households (31 percent) almost double that in high-income households (16.3 percent).

A 1999 report by the National Minors Service (SENAME) noted that it had handled the cases of 5,453 mistreated children for the first 6 months of that year; 583 of these cases were judged severe enough to be presented to legal authorities. The SENAME reported that 9,723 cases of abuse were brought to its attention in 1998. From mid-1998 to December 1999, the SENAME brought to the courts 713 cases for child abuse, 314 for rape, 292 for sexual abuse, 79 for grave harm done to children, and 28 cases of homicide. Of the cases, 70 percent came to trial, of which 80 percent resulted in convictions. Beginning in 1997, the SENAME lawyers began receiving specialized training in child abuse cases, leading to a higher conviction rate of offenders according to the Director of the organization. A report from the La Morada Corporation for Women released in 1999 estimated that there are 20,000 cases of sexual abuse of children every year.

A 1996 UNICEF report stated that 34 percent of children under 12 years of age experience serious physical violence, although only 3.2 percent of the victims of intrafamily violence reported to the Carabineros family affairs unit were below the age of 18. A 1994 law on intrafamily violence was designed in part to address this problem. According to UNICEF, some form of corporal punishment is used by one or both parents in 62 percent of households.

There are legal sanctions for adults who are found to have induced children under the age of 18 to engage in commercial sex or engage them for the purposes of pornography. UNICEF estimated in 1999 that there were roughly 10,000 child prostitutes between the ages of 6 and 18. The age of consent is 12 years; the law is vague regarding child prostitution above this age unless force, fraud, or abuse of authority can be proven.

Police and social workers attempt to place child prostitutes found on the streets in juvenile homes.

Child labor is a problem in the informal economy (see Section 6.d.).

Persons with Disabilities.—A 1994 law promotes the integration of persons with disabilities into society; the Government's National Fund for the Handicapped has a small budget to encourage such integration. The 1992 census found that 288,000 citizens said that they had some form of disability. Persons with disabilities still suffer some forms of legal discrimination; for example, blind persons cannot become teachers or tutors. Although a 1994 law requires that new public buildings provide access for persons with disabilities, the public transportation system does not make provision for wheelchair access, and subway lines in the Santiago metropolitan area provide facilitated access for persons with disabilities only in some areas.

Indigenous People.—Approximately 1.2 million persons identify themselves as indigenous. The Mapuches, from the south, account for approximately 930,000 of this total. There are also small Aymara, Atacamenos, Huilliche, Rapa Nui, and Kawaskhar populations in other parts of the country. A committee composed of rep-

representatives of indigenous groups participated in drafting the 1993 law that recognizes the ethnic diversity of the indigenous population and gives indigenous people a voice in decisions affecting their lands, cultures, and traditions. It provides for eventual bilingual education in schools with indigenous populations, replacing a statute that emphasized assimilation of indigenous people. Of the population that identifies itself as indigenous, about one-half remain separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. In practice, the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources is marginal. Indigenous people also experience some societal discrimination.

The National Corporation for Indigenous Development (CONADI) was created in 1994, and indigenous people were elected directly as representatives to this body in 1995 and 1999. It advises and directs government programs that assist the economic development of indigenous people. During the year, CONADI was accused of irregularities in the purchase and distribution of land to indigenous groups. In May 2000, the Commission for Truth and New Treatment appointed by the Lagos administration proposed a 16-point program aimed at addressing indigenous concerns. As part of the program, the Commission for Truth and New Treatment became permanent, with a mandate to find ways facilitate the participation of Mapuche and other indigenous populations in the formulation of national policies affecting them. The commission met during the year and is charged with issuing a report by January 2003.

The number of incidents of unrest increased compared with the previous year. CONADI offices were occupied on a number of occasions. There were numerous land seizures. On July 25, in Temuco between 500 and 1,000 persons protested the arraignment of indigenous people accused of illegal land seizures and the execution of a search warrant and confiscation of evidence in the offices of an indigenous activist organization. Barricades were erected in front of regional government offices and the protest became violent. Police used water cannons on the protesters. Fifty persons were injured in the confrontation, including 14 policemen. Police arrested 127 persons; 6 were charged with assaulting police officers. In September a land seizure in Loncali was ended by the intervention of a large detachment of armed Carabineros.

Several Mapuche families continued to object to exchanging traditional lands for other property as part of the Ralco hydroelectric project. Sixty-seven families accepted economic inducements to move to other land but six families involved continued to object to ENDESA's effort to have them resettled. Land occupations and other violence by isolated Mapuche Indian groups against private forestry companies occurred through much of the year (see Section 1.c.). In September hooded individuals burned machinery being used in the construction of the Ralco Dam.

The Ninth region, which is mainly Mapuche, is one of the regions using the new criminal justice system (see Section 1.e.). Some Mapuche see the new system as a way to target and repress the Mapuche; these feelings of distrust may represent a lack of understanding of the new system, which in fact provides them with enhanced rights.

The Government was preparing a response to a 1999 suggestion from the U.N. Committee for the Elimination of Racial Discrimination that the Government apologize to and compensate indigenous people for their historical treatment, and explicitly outlaw racial and ethnic discrimination.

National/Racial/Ethnic Minorities.—The country assimilated a major European migration in the 19th century and major Middle Eastern and Croatian migrations in the early part of the 20th century. Smaller racial and ethnic minority groups such as those of Asian descent and African-Chileans also exist and experience some societal intolerance.

Section 6. Worker Rights

a. The Right of Association.—Workers have the right to form unions without prior authorization and to join existing unions. The work force is estimated at 5.87 million persons, of whom 3.7 million are salaried. Union membership is approximately 580,000, or roughly 10 percent of the work force. Police and military personnel may not organize collectively. Members of unions are free to withdraw from union membership. The law prohibits union shops.

The Labor Code permits nationwide labor centrals; the Unified Workers Central (CUT) is the largest and most representative of these. Labor unions are effectively independent of the Government, but union leaders usually are elected from lists based on party affiliation and sometimes receive direction from party headquarters. Political activities or affiliations of unions or union officials are not restricted, although currently serving union officials are not allowed to hold public office. Reg-

istering a union is a simple process. On September 28, President Lagos signed into law a major reform of the Labor Code, which went into effect on December 5. Among various other provisions aimed at facilitating the formation of unions and promoting collective bargaining, the reform freed unions from government regulation of their internal organization and permitted unions to be structured along geographic as well as functional lines.

Employees in the private sector have the right to strike; however, the Government regulates this right, and there are some restrictions. The law permits replacement of striking workers, subject to the payment of money distributed among the strikers. Public employees in theory do not enjoy the right to strike, although government teachers, municipal, and health workers have struck in the past. The law proscribes employees of some 30 companies—largely providers of essential services (e.g., water and electricity)—from striking; it stipulates compulsory arbitration to resolve disputes in these companies. There is no provision for compulsory arbitration in the public sector. Strikes during the harvest season are prohibited.

Employers must pay severance benefits to striking workers and must show cause to dismiss workers.

There were a number of strikes throughout the year. In May a strike against the bicycle manufacturer Bianchi received considerable attention when one of the striking workers was struck and killed by a bus carrying nonstriking workers attempting to enter the facility. The case remained under investigation for possible criminal charges at year's end.

The CUT and many other labor confederations and federations maintain ties to international labor organizations.

b. The Right to Organize and Bargain Collectively.—Despite legal provisions for collective bargaining, before the modifications that went into force on December 1 the Labor Code included provisions that made it difficult for trade unions to organize in many sectors. As a result, the majority of workers work under individual contracts. Employers say that this is due to the workers' preference, distrust of union leaders, and loyalty to companies. Union leaders counter that the Labor Code—which does not allow union shops—prevents successful organization in many sectors. Unions cite the widespread practices of subcontracting, individual contracts, and temporary employment as ways that employers resist unionization. In June the International Labor Organization (ILO) requested that the Government amend its legislation clearly to prevent the practice of “multiple individual contracts” when a representative trade union exists and to ensure that employers' direct negotiation with workers does not create difficulties for, or weaken the position of, trade unions. The modifications to the Labor Code that were approved in September and went into force on December 1 addressed this issue.

The modifications of the Labor Code are also expected to make union organizing easier and preliminary data on new union formation after December 1 appear to confirm those expectations. Workers engaged in the formation of a union may not be discharged during the period from 10 days before to 30 days after the vote to unionize. Likewise, the workers engaged in collective bargaining are immune for 10 days before the presentation of a contract proposal until 30 days after it is signed. They are also entitled to all pertinent financial information from the company for the last 2 years. The modifications also greatly increase fines for violating immunities enjoyed by union leaders or artificially dividing up a company for the purpose of avoiding provisions in the code or resisting unionization. To enforce the new provisions, the Labor Directorate under the Ministry of Labor plans to hire 443 new employees, including 300 labor inspectors, almost doubling the number of field inspectors.

Amendments to the Labor Code resulting from the September reform placed additional limits on the causes for dismissal (for example, misconduct outside the workplace is no longer grounds for dismissal) and significantly increased the penalties for unjustified dismissals. Employees who believe they have been dismissed unfairly or dismissed owing to their trade union activities file complaints with the Ministry of Labor and ultimately, the labor tribunals. According to the revised labor code, if the dismissal is found to be related to trade union activity on the part of the employee, he or she may choose between reinstatement with back wages or an additional compensatory payment. The burden of proof rests with the employer in cases in which alleged illegal antiunion activity is supported in a report by a labor inspector.

During the year, there continued to be allegations that employers dismissed workers for union activity and attempted to avoid a complaint by immediately paying them some multiple of the normal severance pay. During the year, labor leaders complained that companies invoked the law's needs-of-the-company clause to fire workers after a union had signed a new contract. Workers often are reluctant to

contest these actions because of the huge backlog in the Labor Tribunals. This is expected to change now that the Labor Directorate may become a party to these cases. A reform of the Labor Tribunals also is being contemplated to separate pension complaints, which constitute the bulk of pending cases, from disputes over unfair labor practices.

Temporary workers—defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers—may form unions, but their right to collective bargaining is limited. The recent modification of the Labor Code contains reforms aimed at facilitating collective bargaining in the agricultural sector but it is still dependent on employers agreeing to negotiate. Inter-company unions are permitted to bargain collectively only if the individual employers agree to negotiate under such terms.

Labor laws apply in the duty free zones; there are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and the Labor Code prohibit forced or compulsory labor, and it is not known to occur. While the Labor Code does not specifically prohibit forced and bonded labor by children, there were no reports of such practices.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law restricts child labor; however, it is a problem in the informal economy. The law allows children between the ages of 16 and 18 to work with the express permission of their parents or guardians. The law allows 15-year-olds to work under certain conditions; their parents must consent, they must have finished compulsory schooling, and they may only perform light work not requiring hard physical labor, or constituting a threat to health and childhood development. Additional provisions in the law protect workers under 18 years of age by restricting the types of work open to them (for example, they may not work in nightclubs), and by establishing special conditions of work (they may not work more than 8 hours in 1 day). The minimum age to work in an underground mine is 21 years; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Labor inspectors enforce these regulations, and compliance is good in the formal economy; however, many children are employed in the informal economy. UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 work. A government study in 1996 estimated that 15,000 children between the ages of 6 and 11 and 35,000 children between the ages of 12 and 14 were in the work force. A 1998 Catholic Church study estimated that 50,000 children under the age of 15 worked. The majority of these were males from single-parent households headed by women; among these were children who worked more than 40 hours per week and did not attend school. Children sell chewing gum on the street, wash windshields, work as street performers, beg, or help their parents to harvest crops. Child prostitution also is a problem (see Section 5). The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor. The Labor Code does not specifically prohibit forced and bonded labor by children, but such practices were not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work.—The law sets minimum wages, and the minimum wage is adjusted annually. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. The minimum wage as of December 31 was approximately \$157 (105,000 pesos) net of deductions per month. This wage is designed to serve as the starting wage for an unskilled single worker entering the labor force and does not provide a worker and family with a decent standard of living. The minimum wage for domestic servants is 75 percent of that for other occupations (see Section 5). The Government estimates that the percentage of those working at or below minimum wage rose from 9.1 in 1998 to 14.4 in 1999. More recent figures are not yet available. According to the Government, of the workers who earn the minimum wage, approximately 43 percent are between the ages of 15 and 19.

The law sets hours of work and occupational safety and health standards. The legal workweek is 48 hours and is scheduled to be reduced to 45 hours on January 1, 2005. The maximum workday length is 10 hours, but positions such as caretakers and domestic servants are exempted. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who voluntarily exchange a work-free day each week for several consecutive work-free days every 2 weeks.

Occupational health and safety are protected under the law and administered by both the Ministries of Health and of Labor. The Government has increased resources for inspections by over 60 percent since 1990 and plans almost to double the current number over the next 3 years, while targeting industries guilty of the

worst abuses. As a result, enforcement is improving, and voluntary compliance is fairly good. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. Workers who remove themselves from situations that endanger their health and safety have their employment protected if a real danger to their health or safety exists.

f. Trafficking in Persons.—There are no laws that specifically prohibit all forms of trafficking in persons; however, the law makes it a crime for anyone to promote or facilitate the entry to or exit from the country of persons for the purpose of facilitating prostitution. Sanctions are increased in cases in which the victim is a minor; in which violence or intimidation is used; if deception or abuse of authority is involved; if the victim is related or under the tutelage of the perpetrator; if advantage is taken of a victim's circumstances or handicap; or if the action is of a recurring nature. There were no reports that persons were trafficked to or from the country.

The Government employs various measures to help educate the general population on trafficking. For example, the Carabiniero Public Relations Department has carried out lectures on prevention intended for children, adolescents, and adults with the purpose of preventing the disappearance of minors and adolescents as well as avoiding deception. Other organizations such as Mother's Centers (CEMA), and the National Service for Minors also offer support programs to prevent trafficking.

If cases of trafficking in persons were to arise, the police, Justice and Interior Ministries, SERNAM (if the cases involved women), or SENAME (if the cases involved children) would respond.

COLOMBIA

Colombia is a constitutional, multiparty democracy in which the Liberal and Conservative parties have long dominated politics. In 1998 citizens elected President Andres Pastrana of the Conservative Party and a bicameral legislature controlled by the Liberal Party in generally free, fair, and transparent elections, despite attempts at intimidation and fraud by paramilitary groups, guerrillas, and narcotics traffickers. The Government continued to face serious challenges to its control over the national territory, as longstanding and widespread internal armed conflict and rampant violence—both political and criminal—persisted. The principal participants in the conflict were government security forces, paramilitary groups, guerrillas, and narcotics traffickers. The country's internal conflict caused the deaths of between 3,000 and 3,500 civilians during the year, including combat casualties, political murders, and forced disappearances. The civilian judiciary is largely independent of government influence; however, the suborning or intimidation of judges, witnesses, and prosecutors is common.

The civilian-led Ministry of Defense (MOD) is responsible for internal security and oversees both the armed forces (including the army, air force, navy, marines, and coast guard) and the National Police. In the past, civilian management of the armed forces has been limited; however, over the past few years, the professionalism of the armed forces has improved, and respect for civilian authority on the part of the military has increased. In addition to the armed forces and the National Police, the public security forces include armed state law enforcement and investigative authorities, including the Administrative Department of Security (DAS) and the Prosecutor General's Technical Corps of Investigators (CTI). The DAS, which has broad intelligence gathering, law enforcement, and investigative authority, reports directly to the President but is directed by a law enforcement professional. The police are charged formally with maintaining internal order and security but in practice often share law enforcement responsibilities with the army in both rural and urban areas. There are approximately 192 municipalities that lack a state security presence. Many observers maintain that government action to combat paramilitarism has been inadequate, and in the past security forces regularly failed to confront paramilitary groups. However, the security forces confronted and detained significantly more members of paramilitary groups during the year compared with the previous year. Nevertheless, members of the security forces sometimes illegally collaborated with paramilitary forces. Members of the armed forces and the police committed serious violations of human rights.

The country's population is estimated at 41,713,000. Despite years of drug- and politically related violence, the economy is diverse and relatively advanced. Crude oil, coal, coffee, and cut flowers are the principal legal exports. In 1999 the country suffered its first recession in over 60 years, with a decrease in gross domestic product (GDP) of 4.3 percent and record unemployment of over 18 percent. The economy grew approximately 2 percent during the year, and unemployment stood at 16.8 per-

cent at year's end. The inflation rate at year's end was 7.65 percent. Since 1999 the Government has adopted fiscally austere budgets and floated the peso. High levels of violence greatly inhibit business confidence. Narcotics traffickers continued to control large tracts of land and other assets and exerted influence throughout society, the economy, and political life. Income distribution is highly skewed; much of the population lives in poverty. Per capita GDP was approximately \$2,087.

The Government's human rights record remained poor; there were continued efforts to improve the legal framework and institutional mechanisms, but implementation lagged, and serious problems remained in many areas. A small percentage of total human right abuses reported are attributed to state security forces; however, government security forces continued to commit serious abuses, including extrajudicial killings. Impunity remained a problem. Despite some prosecutions and convictions, the authorities rarely brought higher-ranking officers of the security forces and the police charged with human rights offenses to justice. Members of the security forces collaborated with paramilitary groups that committed abuses, in some instances allowing such groups to pass through roadblocks, sharing information, or providing them with supplies or ammunition. Despite increased government efforts to combat and capture members of paramilitary groups, security forces also often failed to take action to prevent paramilitary attacks. Paramilitary forces still find support among the military and police, as well as among local civilian populations in many areas.

The revised Military Penal Code, which took effect in August 2000, provides for an independent military judicial corps and for legal protection for troops if they refuse to carry out illegal orders to commit human rights abuses; the code also precludes unit commanders from judging subordinates. A series of military reform decrees, signed by the President in September 2000, provided greater facility for the military to remove human rights abusers or paramilitary collaborators from its ranks and provided for the further professionalization of the public security forces. The military judiciary continued to demonstrate an increased willingness to turn cases involving security force officers accused of serious human rights violations over to the civilian judiciary, as required by a 1997 Constitutional Court ruling, the new Military Penal Code, and an August 2000 presidential directive.

Police, prison guards, and military forces tortured and mistreated detainees. Conditions in the overcrowded and underfunded prisons are harsh; however, some inmates use bribes or intimidation to obtain more favorable treatment. Arbitrary arrest and detention, as well as prolonged pretrial detention, are fundamental problems. The civilian judiciary is inefficient, severely overburdened by a large case backlog, and undermined by intimidation and the prevailing climate of impunity. This situation remains at the core of the country's human rights problems. At year's end, the Superior Judicial Council (CSJ) reported that the judicial system was extremely overburdened; it received a total of 8.6 million suits in 1994–2000, of which 226,783 were criminal cases filed during 2000.

The authorities sometimes infringed on citizens' privacy rights. A number of journalists were killed, and journalists continued to work in an atmosphere of threats and intimidation, in some instances from local officials, but primarily from paramilitary groups and guerrillas. Journalists practice self-censorship to avoid reprisals. The paramilitaries and guerrillas targeted religious leaders. There were some restrictions on freedom of movement, generally because of security concerns. Violence and instability in rural areas displaced between 275,000 and 347,000 civilians from their homes in during the year. Almost one-fourth of these movements occurred in massive displacements. Exact numbers of displaced persons are difficult to obtain because some persons were displaced more than once, and many displaced persons do not register with the Government or other entities. However, while no consensus exists regarding the exact number of internally displaced persons (IDP's), observers agreed that there has been a significant increase in displacements over the past 3 years. The total number of internally displaced citizens during the last 6 years may exceed 1 million. There were reports that security force members, paramilitaries, and guerrillas killed, threatened, and harassed members of human rights groups. Violence and extensive societal discrimination against women, abuse of children, and child prostitution are serious problems. Extensive societal discrimination against indigenous people and minorities continued. Labor leaders and activists continued to be targets of high levels of violence. Child labor is a widespread problem. Trafficking in women and girls for the purpose of sexual exploitation is a problem. "Social cleansing" killings of street children, prostitutes, homosexuals, and others deemed socially undesirable by paramilitary groups, guerrillas, and vigilante groups continued to be serious problems.

NGO's attributed a large majority of political killings, social cleansing killings, and forced disappearances to paramilitary groups. According to military estimates,

the United Self-Defense Forces of Colombia (AUC) paramilitary umbrella organization has a membership of between 8,000 and 11,000 combatants. The AUC exercised increasing influence during the year and fought to extend its presence through violence and intimidation into areas previously under guerrilla control while conducting selective killings of civilians whom it alleged collaborated with guerrillas. Throughout the country, paramilitary groups killed, tortured, and threatened civilians suspected of sympathizing with guerrillas in an orchestrated campaign to terrorize them into fleeing their homes, to deprive guerrillas of civilian support and allow paramilitary forces to challenge the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) for control of narcotics cultivations and strategically important territories. They also fought guerrillas for control of some lucrative coca-growing regions and engaged directly in narcotics production and trafficking. The AUC increasingly tried to depict itself as an autonomous organization with a political agenda, although in practice it remained a mercenary vigilante force, financed by criminal activities and sectors of society that are targeted by guerrillas. Although some paramilitary groups reflect rural residents' desire to organize solely for self-defense, most are vigilante organizations, and still others are actually the paid private armies of narcotics traffickers or large landowners. Popular support for these organizations grew as guerrilla violence increased in the face of a slowly evolving peace process.

The Government continued to insist that paramilitary groups, like guerrillas, were an illegal force and significantly increased efforts to apprehend paramilitary members. State security forces captured three times as many paramilitaries during the year as during the same period in 2000; however, the public security forces' record in dealing with paramilitary groups remained mixed, and in some locations elements of state security forces tolerated or even collaborated with paramilitary groups.

In April the U.N. Human Rights Commissioner, Mary Robinson, presented a report that strongly criticized the rising number of massacres and disappearances, and the growth of paramilitary forces in the country. In her annual report to the U.N. Commission on Human Rights, Ms. Robinson criticized the Government for failing to fight the paramilitaries. In addition, she expressed alarm at apparent links between paramilitary groups and members of the armed forces.

The FARC and the ELN regularly attacked civilian populations, committed massacres and summary executions, and killed medical and religious personnel. The FARC continued its practice of using gas canisters as mortars to destroy small towns, indiscriminately wounding government officials and civilians in the process. Guerrillas were responsible for the majority of cases of forcible recruitment of indigenous people and of hundreds of children. Guerrillas also were responsible for the majority of kidnappings. Guerrillas were responsible for forced disappearances of soldiers and police and continued a policy of killing, attacking, and threatening off-duty police and military personnel, their relatives, and citizens who cooperated with them. In many places, guerrillas collected "war taxes," forced members of the citizenry into their ranks, forced small farmers to grow illicit crops, and regulated travel, commerce, and other activities. Business owners have been kidnaped or threatened for refusing to comply with the FARC's "Law 002," announced in March 2000, which demanded that anyone with assets of \$1 million pay taxes to the FARC or risk kidnaping. The FARC routinely committed abuses against citizens who resided in the demilitarized ("despeje") zone consisting of 5 southern municipalities, with a total population of approximately 120,000 persons. Numerous credible sources reported cases of murder, rape, kidnaping, extortion, robbery, threats, detention, and the forced recruitment of adults and children, as well as impediments to free speech and fair trial, and interference with religious practices.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Unlawful Deprivation of Life.—Political and extrajudicial killings continued to be a serious problem. During the year, NGO's estimated that over 3,700 citizens died in such acts, committed principally by nonstate agents. Members of the security forces continued to commit extrajudicial killings. An analysis of data from the Center for Investigations and Popular Research (CINEP), published by the Colombian Commission of Jurists (CCJ), a nongovernmental organization (NGO), claimed that from June 2000 to June 2001, state forces committed 100 reported extrajudicial killings, including deaths that resulted from police abuse of authority. CINEP reported that, from January through September, state security force members committed 92 "intentional homicides of protected persons," and caused the deaths of 25 civilians during combat. CINEP reported that security forces were re-

responsible for 119 intentional homicides of protected persons during the same period in 2000. Most of the incidents cited by the CCJ and CINEP were under investigation by military and civilian authorities at year's end. Civilian courts tried an increasing number of cases of military personnel accused of human rights violations (see Section 1.e.). Members of the security forces sometimes illegally collaborated with paramilitary forces, and the authorities continued to investigate past cases of collaboration with or failure to prevent massacres by paramilitaries. There were some reports that police and former security force members committed social cleansing killings. Investigations of past killings and massacres proceeded slowly.

On December 31, 2000, a soldier tossed a grenade at a group of civilians, killing three and injuring three more. On January 29, the authorities dismissed him from the army, and he then pled guilty to aggravated homicide and illegal weapons possession.

The authorities continue to investigate the murder on April 4 of policeman Carlos Ceballos Gomez, who testified in the investigation of illegal wiretapping by the Medellin GAULA kidnaping force (see Section 1.f.).

There continued to be reports that an undetermined number of off-duty policemen committed "social cleansing" killings, or that the police deliberately failed to prevent such killings.

The CCJ reported 161 massacres (defined as the simultaneous or nearly simultaneous killing of 3 or more persons outside of combat at a single location or at several nearby locations), in which 1,021 victims died, during the period from January through September, and estimated that the total number of massacres during the year exceeded 200. The CCJ attributes four massacres to acts of negligence or deliberate omission by state security forces. According to the MOD, during the year, 493 persons were killed in massacres (defined as 4 or more persons killed in 1 incident). The MOD figure does not include persons killed in prison riots; NGOs include such incidents in their statistics. The CCJ analyzed CINEP data from June 2000 to June 2001 and attributed 3 percent of civilian victims and persons killed outside of combat to state security forces.

A court of the first-instance ruling exonerated the soldiers involved in the August 2000 killing of six children by an army unit; however, the Superior Military Tribunal returned the case for reconsideration (see Section 1.g.).

The Procuraduria General (Inspector General), which conducts disciplinary investigations of all public sector employees, received 228 complaints against members of state security forces during the year, compared with 201 during 2000. The Inspector General's office investigated 183 members of state security forces on disciplinary charges related to massacres and forced disappearances. Of this number, the Inspector General sanctioned 20 members of the army, 14 members of the police, and 1 marine. The office exonerated 20 accused persons. As in the previous year, the office continued to refer all cases involving human rights violations to the Prosecutor General for criminal investigation. Five generals remained under investigation by the Inspector General during the year for failure to prevent paramilitary massacres in 1998 and 1999; one was convicted.

As of December, the human rights unit of the Prosecutor General's office reported that it had approximately 788 open investigations of human rights violations by 1,342 individuals, including 234 members of the military and police, 770 presumed members of paramilitary groups, 240 presumed guerrillas, and 98 other civilians. As of December, the unit had arrested 1,293 persons, and another 891 arrest warrants for persons remained outstanding, of which 39 are for members of the military, the police, and the DAS. Prosecutors placed under arrest 132 members of the army, 97 police, 9 members of the DAS, and 7 members of the CTI during the year.

The Institute for Forensic Medicine reported 25,351 homicides for the year, 792 fewer cases than in 2000. The police and the Prosecutor General's office have insufficient resources to investigate most killings adequately. The Superior Judicial Council estimated based on a 1997 survey that 63 percent of crimes go unreported, and that 40 percent of all reported crimes go unpunished.

According to a March 2000 report by the MOD, during the first half of 1999, the most recent year for which information was available, the military judiciary convicted and sentenced 206 members of the National Police, army, and navy for serious offenses that the Ministry identified as violations of human rights: Homicide, bodily injuries, rape, attempted murder, illegal detention, and abuse of authority. Of the total number of convictions, 66 were for homicide and 113 were for bodily injuries. The average sentences issued in 1998 were 58 months' imprisonment for homicide and 15 months' imprisonment for bodily injuries, although sentences ranged from 2 years to 64 years for homicide, and 2 months to 2 years for bodily injuries. The civilian Criminal Procedure Code authorizes restriction to a military

base as an acceptable substitute for imprisonment when military jails or prisons are unavailable.

In 1997 the Constitutional Court more narrowly defined the constitutional provision that crimes by state agents unrelated to “acts of service” must be tried in civilian courts (see Section 1.e.). As of November, the military judiciary had turned 1,373 cases, of which an estimated 41 percent were possible human rights violations, over to the civilian judiciary for investigation and possible prosecution, including cases involving high-ranking officers. The new Military Penal Code reiterates that the crimes of genocide, forced disappearance, and torture must be tried in civilian courts. In August 2000, the President reaffirmed these new legal norms through a directive sent to the military high command and the commander of the National Police (see Section 1.e.).

During the year, the military judiciary turned 66 cases over to the civilian judiciary, compared with 496 cases during 2000. The decrease does not reflect a reduced willingness to transfer such cases; a large backlog of cases from previous years were transferred during 2000. The Supreme Council of the Judiciary ruled on 31 conflicts of jurisdiction involving cases against the military during the year. Of these, 11 cases were assigned to the military judiciary and 20 were assigned to civilian courts.

The CCJ in its analysis of data from CINEP and other sources attributed four massacres during the year to state security forces. In none of these cases were killings attributed directly to members of the state security services; CCJ and CINEP attributed three of these massacres to state negligence, while the fourth was attributed to deliberate failure to prevent paramilitary violence. Of these four incidents, three involved prison riots, in which guerrilla and paramilitary inmates killed one another (see Section 1.c.). CCJ and CINEP concluded that prison guards were at fault in failing to prevent these deaths.

The fourth incident was a March 17 paramilitary massacre in San Carlos, Antioquia, which resulted in the deaths of 13 persons. CCJ and CINEP charged that army and police troops deliberately withdrew from the area of the attack 3 days prior to the massacre. At year’s end, the office of the Inspector General was conducting a disciplinary investigation of 10 members of the military and police, regarding allegations that they permitted a truck that was carrying 15 hostages being held by paramilitaries to pass unchallenged. A separate investigation by the Prosecutor General’s office also was in progress at year’s end.

In May the authorities detained two army Fourth Brigade corporals on suspicion of having participated in the January 2000 murder of Uberney Giraldo and Jose Evelio Gallo, both long-demobilized guerrillas of the Socialist Renewal Current (CRS) and two others, after abducting them from the village of San Antonio, Antioquia department. Although two other army officers and four other soldiers were not detained, they remained under investigation. The Inspector General’s office and the Prosecutor General’s office continue to investigate the case at year’s end.

In June a Rionegro, Antioquia department, court convicted in absentia army major David Hernandez Rojas and army captain Diego Fino Rodriguez of aggravated homicide in the 1999 murder of Antioquia peace commissioner (and former Vice Minister for Youth) Alex Lopera and two other persons, and sentenced them to 50 years in prison. A former member of the army’s Fourth Brigade, Raul Gallego, was absolved. Two other soldiers were convicted of committing the killings and were serving prison sentences at year’s end. Captain Fino and Major Hernandez remained at large at year’s end following their escapes from military detention in March 2000 and June 1999 respectively. Another soldier and a civilian were convicted and sentenced in absentia for obstruction of justice and for assisting in Fino’s escape.

In November retired army Lieutenant Colonel Jorge Plazas Acevedo, former chief of intelligence of the army’s 13th Brigade, stood trial for the 1998 kidnaping and 1999 murder of Jewish business leader Benjamin Khoudari. At year’s end, the court had not yet issued a final ruling. Civilian Jhon Alexis Olarte Briceno and army sergeant Guillermo Lozano Guerrero also remained on trial at year’s end. Two other suspects were appealing their convictions for aggravated kidnaping and homicide to the Bogota Supreme Court.

Prosecutors continued to investigate the May 1998 Barrancabermeja massacre, as well as the July 2000 murder of Elizabeth Canas Cano, a key eyewitness. The Inspector General’s office also was conducting an inquiry into the death of Canas. In August 2000, the Inspector General had sanctioned eight service members in connection with the massacre, including members of the army, the police, and the DAS, of which three—army Captain Oswaldo Prada Escobar, Lieutenant Enrique Daza and Second Lieutenant Hector Guzman Santos—were discharged. A police lieutenant colonel, captain, and lieutenant, as well as two DAS agents were suspended.

At year's end, the civilian trial continued of retired Colonel Bernardo Ruiz Silva, former commander of the army's now disbanded 20th Brigade (military intelligence) for allegedly organizing the 1995 Bogota killing of Conservative Party opposition leader Alvaro Gomez Hurtado. In March the judge reported a death threat against her (see Section 1.e.). The trial continued at year's end. Also on trial are army intelligence agents Henry Berrio Loaiza and Carlos Gaona Ovalle, retired army warrant officers Omar Berrio Loaiza and Franklin Gaona Ovalle, and civilian accused killers Hector Paul Florez Martinez, Manuel Mariano Montero Perez, Gustavo Adolfo Jaramillo Giraldo, and Hermes Ortiz Duran.

At year's end, marine Colonel Jose Ancizar Molano Padilla (then-commander of the 2nd Marine Infantry Battalion) as well as marine Corporals Javier Fernando Guerrero, Eduardo Aristides Alvarez, and Jose Milton Caicedo were standing trial in a civilian court in Pasto for the 1995 social cleansing killings of alleged thieves Sifredy and Fredy Arboleda. The authorities continued to seek the capture of marine Sergeant Francisco Duarte Zuniga. A disciplinary investigation by the Inspector General continued at year's end.

The Supreme Court is expected to rule on the appeal of 5 army officers and 4 paramilitaries of their 1998 convictions in the case of the 1988 Nuevo Segovia paramilitary massacre, in which 43 persons were killed and 45 injured, and their sentence of 18 to 30 years' imprisonment for terrorism.

The Prosecutor General's office continued to investigate the 1987 kidnaping, torture, and death of Nydia Erika Bautista de Arellano, a member of the M-19 guerrilla group. The case was reassigned to civilian justice in July 2000. In 1994 the Inspector General had removed Brigadier General Alvaro Velandia Hurtado from the armed forces and sanctioned a sergeant in the case. In 1996 the Government had complied with a court order to pay compensation to Bautista's family for the involvement of MOD officials.

Credible allegations of cooperation with paramilitary groups, including instances of both passive support and direct collaboration by members of the public security forces, in particular the army, continued. Evidence suggests that there were tacit arrangements between local military commanders and paramilitary groups in some regions, and paramilitary forces operated freely in some areas despite a significant military presence. Members of the security forces actively collaborated with members of paramilitary groups—passing them through roadblocks, sharing intelligence, providing them with ammunition, and allegedly even joining their ranks while off duty.

The military high command, under the leadership of Minister of Defense Gustavo Bell and General Fernando Tapias, stated repeatedly that it would not tolerate collaboration between military personnel and paramilitary groups, and that the army would combat paramilitary groups. Although state security forces doubled operations against paramilitaries during the year and tripled the number of paramilitaries captured since 2000 (see Section 1.g.), security force actions in the field were not always consistent with the leadership's positions, and members of the security forces sometimes illegally collaborated with paramilitary forces. Credible reports persisted of paramilitary installations and roadblocks near military bases; of contacts between paramilitary and military members; of paramilitary roadblocks unchallenged by military forces; and of military failure to respond to warnings of impending paramilitary massacres or selective killings. Military entities often cited lack of information, manpower, and mobility to explain this situation. Impunity for military personnel who collaborated with members of paramilitary groups remained common.

In October Human Rights Watch issued "The Sixth Division," a report that stated that the army maintains close operational ties to paramilitary groups. The report highlighted reports from 1999–2001 of collaboration with paramilitary forces or acts of omission in preventing paramilitary crimes by officers of the army's 3rd, 5th, and 24th Brigades. Human Rights Watch sharply criticized the Government for failing to address effectively the problem of continued military-paramilitary cooperation and general impunity for human rights violators and also charged that the Government exaggerated the effectiveness of its actions against paramilitarism with "a sophisticated public relations campaign." Presidential Human Rights Program Director Reinaldo Botero vigorously denied that his office published distorted information and criticized the "immoderate tone" of the report. However, Botero welcomed the NGO's statement that high level Government officials clearly and publicly stated their policy to combat paramilitarism. Brigadier General Martin Orlando Carreno, commander of the Fifth Brigade, said that Human Rights Watch's allegations were based on erroneous information and noted that the Fifth Brigade had captured 147 members of paramilitary groups and killed 18 others in combat during the year.

In September 2000, the President signed military decrees that allowed for the dismissal of members of the public security forces who were complicit in paramilitary or other illegal activities; government agencies actively investigated allegations of collaboration or complicity with paramilitary groups by members of the security forces. From October 2000 through the end of 2001, the military dismissed approximately 600 members; however, it was not known how many discharges were for collaborating with paramilitary groups (see Section I.e.).

On January 17, approximately 80 paramilitaries killed 27 civilians in Chengue, Sucre department. Early in the investigation, paramilitary Elkin Antonio Valdiris Tirado was captured and confessed to a role in the massacre. Valdiris also implicated two active duty marine sergeants; one was charged and was awaiting trial at year's end, while the other was detained pending formal charges. A civilian suspect also was awaiting trial at year's end. On August 29, in Sincelejo, Sucre department, presumed paramilitaries killed Yolanda Paternina, a prosecutor working on the case. Two CTI investigators on the case disappeared in mid-April near Berrugas, Sucre department and are presumed dead. The Inspector General's office opened a disciplinary investigation of then-Marine First Brigade commander Rodrigo Quinones, five other marine officers, the marine sergeants, and a police officer for possible acts of omission in failing to prevent the massacre.

The Government is investigating a March 5 paramilitary incursion in the "peace community" of San Jose de Apartado, in Uraba region, Antioquia department, in which both residents and international observers were threatened, and a number of buildings were burned. Community members alleged that members of the army's 17th Brigade were involved in the raid. On July 30, 15 armed paramilitaries killed 1 man and displaced 64 families from the peace community of La Union, Uraba region, and announced a paramilitary takeover of the community, although they did not maintain control. Both FARC and paramilitaries are present in the mountains above this community. At the request of the peace community, 17th Brigade troops did not enter San Jose. Witnesses reported that the paramilitaries who entered San Jose in July 2001 identified themselves as the same persons who had committed the July 2000 massacre in the same community. The murder is under investigation. The authorities also are investigating the December 15 murder of a resident of San Jose de Apartado by three armed men in civilian clothing; the victim was not a member of the peace community. An NGO attributed the killing to paramilitaries; however, it remains unclear who was responsible.

Prosecutors also continue to investigate two paramilitary massacres in February 2000 in San Jose de Apartado and in July 2000 in neighboring La Union, in which 11 persons were killed. Members of the San Jose de Apartado peace community, as well as NGO's, accused the 17th Brigade of complicity in the attacks. On February 19, 2000, unidentified presumed ACCU paramilitaries killed five persons in San Jose de Apartado, and wounded three others; there were reports that the men wore the insignia of the 17th Brigade on their uniforms. On July 8, 2000, approximately 20 paramilitary assailants murdered 6 peasants in La Union, part of San Jose de Apartado. The attackers reportedly gave the citizens 20 days to leave the town. NGO's alleged that the 17th Brigade was complicit in both attacks, that army members were near La Union prior to the July 8 attack, and that a military helicopter hovered over La Union during the massacre. Government investigators continued to investigate complaints of military-paramilitary collusion in these massacres at year's end.

On February 19-20, 2000, a large group of AUC paramilitary attackers killed 42 persons, whom they accused of being guerrillas or guerrilla sympathizers at El Salado, Bolivar department. A military investigation did not find any substantiation for complaints that the military purposely failed to prevent the attack, or that the navy blocked relief groups from entering. An investigation by the Prosecutor General's office continued, and by year's end, 16 paramilitary suspects were detained and standing trial. (An arrest warrant remained outstanding for AUC leader Carlos Castano.) The Inspector General's office continued a disciplinary investigation of navy Rear Admiral Humberto Cubos Padilla and navy Rear Admiral Rodrigo Quinones, five other navy officers, and two police officers, but at year's end, had not yet charged any service member in the case.

In March 2000, the human rights unit of the Prosecutor General's office ordered the detention of army Captain Luis Fernando Campusano Vasquez and sought the capture of 15 other civilians, including Carlos Castano, who remained at large. They are suspected of being affiliated with area units that collaborated with a 300-person paramilitary group based at Vetás, Norte de Santander department, which committed 15 massacres in and around the towns of La Gabarra and Tibu between May and September, 1999. More than 145 persons whom the attackers claimed were guerrillas or guerrilla supporters were killed. Nearby elements of the army's 46th

counterguerrilla battalion (Tibu) and 5th mechanized group (Cucuta), as well as police, did not intervene. In December the authorities arrested army Colonel Victor Matamoros and Captain Juan Carlos Fernandez, the former commander and the former intelligence director of the Fifth Mechanized Group, respectively. The two are charged with collaboration with and the formation of illegal paramilitary groups between 1997 and 1999.

The Prosecutor General's office has charged one army captain and two civilians for failing to prevent a paramilitary massacre of 22 persons in August 1999 in La Gabarra, Norte de Santander department. However, it did not file charges against retired army Brigadier General Alberto Bravo Silva, Colonel Roque Sanchez, and two other army officers. (Bravo retired in 1999 on orders from the President.) The Prosecutor General's office is trying in absentia AUC leader Carlos Castano and 14 others for homicide and subversion related to this massacre.

The May 29, 1999, paramilitary massacre in which six persons in Los Cuervos (near La Gabarra) were killed also remains under investigation; two former members of the military, two prison guards, and five civilians are under arrest and in detention. The Inspector General's office continued its investigation of (but had not charged) Bravo, Roque, army Colonel Victor Hugo Matamoros, army major Mauricio Llorente Chavez, and army lieutenant Luis Fernando Campuzano.

In March the Prosecutor General charged former Tibu military base commander Mauricio Llorente Chavez, former Tibu police commander Major Harbey Fernando Ortega Ruales, and 13 police agents with homicide and complicity in a July 17, 1999, paramilitary massacre in Tibu. The suspects remained under arrest at year's end.

In April the Prosecutor General's office ordered the detention of Colonel Rafael Alfonso Hani Jimeno, who was arrested later and charged with collusion with paramilitaries. Hani was the commander of the army's Palace de Buga Battalion, located in Tulua, Valle del Cauca department, during a period in 1999 when paramilitaries conducted a series of killings and displaced hundreds of peasant farmers. He also was alleged to have permitted a known paramilitary (whom Hani claimed was an informant) to live at battalion headquarters for months. At year's end, the charges against Hani had been overturned on appeal, but Hani remained under investigation. There were reports of threats against investigators and witnesses in this case. In February the Inspector General's office opened a separate disciplinary investigation of Hani.

On July 27, 2000, the Inspector General's office formally charged 5 army officers, including 4 generals, for failing to prevent the massacre of 19 persons in May 1998 in Puerto Alvira, Meta department. The five charged are former commanders of the army's Fourth Division, retired Major General Augustin Ardila Uribe and General Jaime Humberto Cortes Parada (the army's Inspector General); former commander of the 7th Brigade, retired Brigadier General Jaime Humberto Uscategui; commander of the 2nd Brigade, General Fredy Padilla de Leon (also the former head of the 7th Brigade); and the commander of the "Joaquin Paris" battalion, Colonel Gustavo Sanchez Gutierrez. Those involved denied the charges. The Inspector General's investigation was still in progress at year's end. In March the Superior Military Tribunal confirmed the June 2000 first instance military court's ruling to close the case. At year's end, the human rights unit of the Prosecutor General's office had under arrest one paramilitary, had released another suspect for lack of evidence, and had outstanding arrest warrants for AUC leader Carlos Castano and seven others.

In December 2000, the Inspector General's office charged 17 police and 9 army officials with collusion with paramilitary groups in approximately 160 social cleansing murders by members of paramilitary groups in northeastern Antioquia (including the communities of La Ceja, Guarne, and El Penon) during 1995-98. The Inspector General also charged two municipal officials with omission. The Prosecutor General's office also charged 21 of the 26 officials who faced disciplinary charges, as well as a suspected paramilitary. All of the individuals charged either were standing trial or awaiting court dates at year's end.

In April a military tribunal convicted Brigadier General Jaime Uscategui and sentenced him to 40 months' imprisonment for failing to prevent the July 1997 AUC paramilitary massacre of dozens of persons in Mapiiripan, Meta department. The court also convicted Lieutenant Colonel Hernan Orozco (a primary witness against Uscategui) and sentenced him to 38 months in prison. Orozco was released in September, having served his entire sentence. Uscategui's sentence subsequently was reduced for time served and work performed, and he was released in July. In the view of many human rights groups, the term of Uscategui's sentence and early release, although legal, severely undercut the message sent by his conviction. In addition, human rights organizations criticized the sentence given to Colonel Orozco as

punishment for his having come forward with the facts and the General's involvement in the massacre. A civilian judge hearing the case against other military and civilian defendants was threatened during the year (see Section 1.e.). In November the Constitutional Court announced that it would rule that Uscategui's case should be assigned to civilian jurisdiction. The court had not issued or implemented the ruling at year's end. The ruling is expected to nullify the military tribunal's conviction. The ruling is also an implied exoneration of Orozco because the Prosecutor General's office had decided in March 1999 not to press charges against Orozco.

In 1999 the CSJ had sent the cases of all other defendants in the Mapiripan case to the civilian courts for action, including charges against Lieutenant Colonel Lino Hernando Sanchez Prada for facilitating the massacre, which was determined not to be an act of service. At year's end, Lieutenant Colonel Sanchez and the five other defendants (two noncommissioned officers and three commercial pilots) remained on trial in the civilian judiciary. Two other civilian paramilitary defendants were indicted in December 2000 and remained on trial and in detention at year's end. In November 2000, the Prosecutor General indicted in a separate process Lieutenant Colonel Sanchez, two army sergeants, and eight members of paramilitary groups (including two civilian pilots).

The military judiciary announced no new developments during the year in its ongoing investigation of retired Brigadier General Fernando Millan Perez regarding allegations that he armed and equipped a paramilitary group in Lebrija, Santander department in 1997, which was believed to be responsible for at least 11 killings. In October 1998, the Superior Judicial Council had determined that Millan's alleged actions constituted an act of service and turned the case over to the military judiciary for prosecution. In July the Inspector General's office charged army General Fernando Millan Perez, army Colonel Hernando Sanchez Salamanca, and army lieutenant Oscar Esteban Hernandez Barragan.

In late July, the CTI detained General Rito Alejo del Rio, former commander of the 17th Brigade, on suspicion of illegal collaboration with paramilitaries in Uraba in 1995-97. Newly named Prosecutor General Luis Camilo Osorio publicly criticized the decision to arrest del Rio and complained that he had not been consulted. Human Rights Unit coordinator Pedro Diaz insisted that the Human Rights Unit prosecutor on the case had legal authority to issue the warrant. In early August, a Bogota judge freed del Rio under a habeas corpus ruling that claimed irregularities in the processing of the arrest warrant. The judge also ruled (under a highly controversial interpretation of Article 235 of the Constitution) that jurisdiction for the case rested exclusively with Osorio, not the Human Rights Unit prosecutor. Both Diaz and Deputy Prosecutor General Pablo Elias Gonzalez resigned shortly afterward. General Del Rio remained free; however, in November the office of the Prosecutor General summoned General del Rio to inquest. The investigation was still in progress at year's end. The office of the Inspector General continued a separate disciplinary investigation of del Rio.

An appeals court confirmed charges of collusion with paramilitaries in the 1996-97 social cleansing killings in La Ceja, Antioquia department, against army Lieutenant Colonel Jesus Maria Clavijo Clavijo, soldier Carlos Mario Escudero, and police agent William Mora; all three were awaiting trial in a civilian court at year's end. Clavijo remained detained at 5th Brigade headquarters. In two separate cases related to the same series of crimes in Antioquia, prosecutors also charged police agents Luis Alfredo Castillo Suarez, Juan Carlos Valencia Arbalaez, Carlos Maria Tejada, and Olimpo Rivera; and soldiers Javier Antonio Gomez Herran, and Osvaldo Leon Beltran, all of whom were awaiting trial at year's end. Prosecutors also arrested army Major Alvaro Cortes Murillo and army Lieutenant Colonel Alfonso Zapata Gaviria. Paramilitary Ricardo Lopez Lora was sentenced to 16 years in the La Ceja killings, another paramilitary is being tried in absentia, and a third has been absolved.

The case of retired army Colonel Jose Ancizar Hincapie Betancurt for collaboration in 1993-94 with a paramilitary group that killed 11 persons remained pending before civilian courts at year's end.

Paramilitary groups committed numerous extrajudicial killings, primarily in areas where they competed with guerrilla forces for control, and often in the absence of a strong government security force presence. Several major paramilitary campaigns during the year included massacres in Sucre, Norte de Santander, Magdalena, and Valle del Cauca departments. The office of the Human Rights Ombudsman received complaints regarding 125 massacres during the year. The MOD reported that paramilitary forces were responsible for the deaths of 1,015 civilians in the period from January to November. According to the MOD, during the year, the paramilitaries killed 281 persons during massacres. The CCJ reported 161 massacres during January-September, of which 102 massacres (representing 671 victims) are attributed to

paramilitaries. The CCJ attributes a total of 1,929 political killings and 319 social cleansing killings to paramilitary groups in the period from June 2000 to June 2001. Paramilitary activities also included kidnaping, intimidation, and the forced displacement of persons not directly involved in hostilities (see Sections 1.b., 1.c., 1.g., and 2.d.). Paramilitary groups targeted journalists and teachers (see Section 2.a.), human rights activists (see Section 4), labor leaders (see Section 6.a.), community activists, national and local politicians (including the President), peasants, and other persons whom they accused of supporting or failing to confront guerrillas. Paramilitary forces killed indigenous people (see Section 5).

AUC paramilitary groups were suspected of hundreds of selective killings throughout the country, especially in Valle del Cauca, Antioquia, Norte de Santander, Bolivar, and Sucre departments. The FARC, the ELN, or both had a strong presence in these areas as paramilitary forces vied with them for control of territory or resources, including coca cultivation. Paramilitary groups continued to kill political leaders and peace activists, including Ismael Valencia, the former mayor of Calima Darien, Valle del Cauca department; and nun and human rights activist Yolanda Ceron in Tumaco, Narino department. Six members of the CTI were killed during the year in various parts of the country; paramilitary forces were suspected of responsibility in two of these killings; in the others the responsible group had not been identified at year's end.

Paramilitary massacres and incursions continued in Antioquia, Sucre, and Bolivar departments as part of an ongoing paramilitary effort to wrest territorial control from the guerrillas. A similarly fierce struggle for control continued in Norte de Santander, Cauca, and Valle del Cauca departments.

On January 5, presumed paramilitaries killed 14 persons in the villages of Chiquinquirá and Mesetas, Penol municipality, Antioquia department.

On February 13, gunmen shot and killed Ivan Villamizar, a former regional ombudsman, in Cucuta, Santander department. One presumed paramilitary was captured and charged with the murder.

On March 21, a suspected paramilitary gunman shot and killed business owner and farmer Gonzalo Rodriguez, brother of ELN leader Nicolas Rodriguez, in Socorro. The victim reportedly had no involvement with guerrillas.

On March 24, paramilitaries reportedly kidnaped between 24 and 30 persons in La Llorente, Narino department. Three persons, not among those reported kidnaped, were killed in separate incidents and confirmed dead after this incursion. The identity and fate of the other persons reportedly kidnaped has never been confirmed.

From January through April, the AUC mounted a successful offensive to displace the ELN from the northeastern neighborhoods of Barrancabermeja, Santander department. By April, more than 180 civilians had been killed and another 4,000 displaced. The human rights NGO CREDHOS reported at year's end that 360 persons were killed in political violence in the period from January to November in Barrancabermeja and surrounding areas. The Prosecutor General's office and Inspector General's office are investigating numerous complaints of military and police collusion with paramilitaries in Barrancabermeja.

On April 14, in the Alto Naya region (on the border of Cauca and Valle del Cauca departments), paramilitaries murdered 20 persons with machetes and guns (reportedly raping at least 1 victim first), and displaced hundreds more. Responding to the massacre, the army and navy captured 70 paramilitaries, including a paramilitary bloc commander, in a joint operation. All of the suspects were under arrest and awaiting trial at year's end. The Prosecutor General's office and the Inspector General's office also are investigating allegations that army troops may have been guilty of failing to prevent the massacre. No charges have been filed against any service member.

On July 4, a large group of AUC paramilitaries kidnaped 43 young men in Peque, Antioquia department and forced them to herd stolen cattle. Seven of the men later were found dead and severely mutilated. As some of these victims were taken into an area where there was AUC-FARC combat, it remains unclear whether the paramilitaries or the FARC killed them. FARC guerrilla troops arrived in Peque following the incident and offered security to its residents. The guerrillas departed later on July 11, after which the army and police arrived. Vice President and Minister of Defense Bell also visited Peque on July 12. Most of the 3,500 persons displaced by this incident returned by late July. The army reported that limited manpower and mobility, as well as other demands on army resources at the time, prevented rapid reaction to the crisis in Peque. The Inspector General was investigating complaints of military omission or collusion, but has not identified individual suspects in the case.

On September 5, presumed AUC paramilitary gunmen killed Congressman and Lower House Peace Committee Acting Chairman Jairo Hernando Rojas. The Prosecutor General's Human Rights Unit was investigating the case.

On September 15, approximately 20 AUC paramilitaries killed 9 persons in Frias, Magdalena department, accusing them of being guerrilla informants. Contrary to some press reports alleging slow military reaction, international organizations verified that the army arrived promptly at the scene. There had been no previous threats or warnings reported for that location.

In October presumed paramilitaries kidnaped 13 fishermen in Cienaga de Santa Marta, Magdalena department; the bodies of 6 were found (see Section 1.b.).

On October 10, AUC paramilitaries shot and killed 24 persons in the communities of La Habana and Alaska, near the city of Buga in Valle del Cauca department. Human Rights Ombudsman Eduardo Cifuentes publicly accused the army's Palace de Buga battalion of omission in failing to reach the area until the following morning. According to the army, this area, contested between the FARC and paramilitaries, was difficult to reach quickly in combat conditions. In late October, army troops captured 10 civilian paramilitary suspects, and the case remained under investigation by the Prosecutor General's office at year's end.

On December 1, AUC paramilitaries shot and killed 15 persons on a remote country road in Boyaca department. According to press reports, local officials said that the mass slaying signals a possible push by the AUC into the mineral rich region that had been a bastion of guerrillas.

The Prosecutor General's office continues to investigate a series of attacks in November 2000, when paramilitary forces killed 15 fishermen in Nueva Venecia (La Cienaga de Santa Marta), Magdalena department, and kidnaped another 22 persons, whose bodies later were discovered.

Prosecutors continue to investigate an April 2000 massacre of 21 men by approximately 50 paramilitary attackers at Tibu, Catatumbo region, Norte de Santander department.

Prosecutors continued to investigate the February 2000 ACCU massacres in five neighborhoods of Las Ovejas.

In May 2000, a paramilitary group that identified itself as the "Calima Front" claimed responsibility for the killings of 12 civilians in the village of Sabaletas, Valle del Cauca department. The group also claimed to have killed 14 other persons it suspected of being guerrillas in the same area. According to Human Rights Watch, the army's 3rd Brigade created and supports the Calima Front, which Human Rights Watch believes was responsible for at least 200 killings between July 1999 and July 2000, as well as the displacement of over 10,000 persons. The Prosecutor General's office and the Inspector General's office continue investigating claims of continued military collusion with the Calima Front.

At year's end, paramilitary and "La Terraza" gangster Juan Pablo Ortiz Agudelo (alias "Bochas"), already convicted and imprisoned for another murder, was appealing charges filed against him for the 1999 murder in Bogota of journalist, comedian, and human rights activist Jaime Garzon Forero. Under the law, a defendant has the right to appeal charges; if the charges are confirmed, the case proceeds to trial. AUC leader Carlos Castano has been charged with ordering the killing, but remains at large.

Paramilitary leader Mario James Mejia ("el Panadero") was convicted of eight murders and sentenced to 40 years' imprisonment for the February 1999 "Barrancabermeja II" massacre, which left nine persons dead. Pedro Mateo Hurtado Moreno and three other paramilitary suspects in the massacre remained at large at year's end.

In July a Bogota judge, citing lack of evidence, acquitted five suspects in the 1998 killing of Eduardo Umana Mendoza, perhaps the country's best-known and most controversial human rights lawyer. The five were released, after 3 years in detention.

In March a Medellin court sentenced two paramilitaries to 35 years' imprisonment for the 1998 killing of human rights activist Jesus Maria Valle, the president of the Antioquia Permanent Committee for the Defense of Human Rights. Seven other suspects were exonerated, and AUC leader Carlos Castano was convicted in absentia of the formation of paramilitary groups but absolved of the murder.

Accused paramilitary Ivan Urdinola Grajales remained in detention in connection with the 1989-90 "Trujillo I" massacres in Valle del Cauca department, and also is implicated in the 1994 "Trujillo II" massacre. Prosecutors also have an outstanding warrant for the detention of one other paramilitary member in the Trujillo I case. In May 2000, a court upheld charges against paramilitary Norberto Morales Ledesma for involvement in the Trujillo II massacre. Two other members of paramilitary groups implicated in both Trujillo I and Trujillo II remain at large.

In November Carlos Castano admitted in his published memoirs that he was responsible for the 1990 murder of presidential candidate Carlos Pizarro, among other crimes.

Although authorities have captured several regional commanders, top paramilitary leaders largely remained beyond the reach of the law. MOD figures published in July indicated that 954 paramilitaries were captured between January and November (a 3-fold increase over the same period in 2000) and 109 were killed. The Ministry of Defense also reported in mid-October that 24 soldiers were killed and 31 wounded in clashes with the AUC.

In January police in Barrancabermeja arrested Franklin Eugenio Aguilar Rengifo in connection with a kidnaping. On January 12, police captured Danilo Cordoba Moya, presumed regional AUC commander for the northern part of the country, in Zambrano, Bolivar department. On January 28, the CNP arrested paramilitary leader Gustavo Adolfo Soto Garcia in San Carlos de Guaroa, Meta department. On March 22, Roberto Carlos Delgado, leader of the AUC's Southern Liberators bloc, was captured along with five others including retired army colonel Jesus Uruena Paz. In May the police captured Dumar de Jesus Guerrero, commander of the AUC's forces in the central regions of the country. On May 19, military units captured Francisco Javier Correa Gonzalez, leader of AUC forces in the northeastern neighborhoods of Barrancabermeja.

The guerrillas of the FARC, the ELN, and the People's Liberation Army (EPL) continued to commit killings, often targeting noncombatants in a manner similar to that of paramilitary groups. The MOD attributed a total of 1,075 civilian deaths to guerrillas between January and November. According to the MOD, during the year, guerrillas killed 158 persons during massacres. The CCJ reported that guerrillas were responsible for 458 political killings in the period from June 2000 to June 2001, the most recent period for which figures are available, compared with 236 political killings in the period from October 1999 through March 2000. The Ministry of Defense attributed 880 civilian deaths in massacres to guerrillas during 2000. The Human Rights Ombudsman attributed 22 massacres to the FARC during the first 6 months of 2000 and 9 massacres to the ELN. The Ombudsman also attributed 89 killings to the FARC and 31 killings to the ELN during the first 6 months of 2000.

Common guerrilla targets included local elected officials and candidates for public office, teachers (see Section 2.a.), civic leaders, business owners, and peasants opposed to the guerrillas' political or military activities. Guerrilla groups also killed religious leaders (see Section 2.c.), members of indigenous groups (see Section 5), and labor leaders (see Section 6.a.). Some communities controlled by guerrillas also experienced social cleansing killings of criminal or other "undesirable" elements. The CCJ reported 10 such killings for the period of June 2000 to June 2001. Guerrilla campaigns around the demilitarized area, in the Norte de Santander, Antioquia, and southern departments often involved significant civilian casualties and prompted significant displacements (see Section 1.g. and 2.d.).

On January 18, guerrillas of the FARC's 57th front shot and killed Henry Perea Torres, the mayor of Jurado, Choco department. Perea, who had taken office on January 1, represented the Indigenous Social Alliance and had criticized the murder several days earlier of fellow indigenous leader Armando Achita.

On February 6, presumed ELN guerrillas killed nine farmers who actively opposed the creation of an ELN encounter zone, in La Cristalina community near Puerto Wilches, Santander department.

On February 13, FARC guerrillas killed nine young hikers in the Purace National Park in Huila department. The FARC stated that they had mistaken the hikers for paramilitaries and promised the victims' relatives that the culprits would stand revolutionary trial. The killers remained at large at year's end.

From May 22-29, FARC guerrillas kidnaped and killed approximately 23 peasants in Alto Sinu, Cordoba department. An estimated 110 families were displaced following these attacks. The attacks appeared to have been part of an AUC-FARC struggle to control territory and coca cultivation, and to terrorize the local population.

In August presumed ELN guerrillas set off a series of bombing attacks in Medellin, Marinilla, and San Francisco, Antioquia department. Two persons were killed and approximately 81 persons were injured.

On September 6-7, FARC guerrillas killed 10 coca leaf pickers. As many as 40 other persons were reported dead, but the FARC prevented government authorities and the International Committee of the Red Cross (ICRC) from recovering the bodies. The attacks appeared to be an effort by the FARC to take back the area around La Gabarra, which had been seized by paramilitaries in a series of attacks in 1999

that included three large massacres. This area remains hotly contested between illegal armed groups, both for coca cultivation and for access to the Venezuelan border.

On September 24, the FARC kidnaped and later killed Consuelo Araujo, a former Minister of Culture and the wife of the Inspector General (see Section 1.b.). Other kidnap victims were released or rescued.

In October ELN guerrillas destroyed a building in El Penol, Antioquia department, killing a policeman, his wife and child, and two other civilians.

On November 16, FARC units at an illegal checkpoint at Santuario, Putumayo department executed an unarmed soldier from the 12th Brigade and a taxi driver.

The authorities blamed FARC guerrillas for the December massacre of 15 farmers in Samana, Caldas department.

The human rights unit of the Prosecutor General's office continues to investigate deaths, disappearances, and kidnappings of off-duty army and police personnel (see Section 1.b.). For example, in late July, the authorities discovered the bodies of army Sergeant Eliud Sarmiento Ruiz and soldiers Eduardo Barreto, Moise Murcia Robayo, and Carlos Coronado Lopez in a common grave in Cundinamarca department. The four men, whose hands were bound and whose bodies showed signs of torture, had been kidnaped by the FARC on July 1 while they were off-duty, out of uniform, and unarmed.

Investigations into reported killings by FARC members within and on the periphery of the despeje continued. The investigation continued of the December 2000 killing of congressional peace commission chairman Diego Turbay Cote, his mother councilwoman Ines Cote, and five other persons in Caqueta department (near the FARC demilitarized zone). In November three suspects in the Turbay killings were released for lack of evidence.

In early October 2000, the FARC attacked the remote village of Ortega and killed eight persons, including two women and two children. The guerrillas also burned 20 homes, a school, and a church. In June 2000, the FARC massacred at least 11 civilians at Nutibara, Antioquia department, and injured 15 other persons.

The ELN is suspected of involvement in the February 6 killing of nine farmers in the La Cristalina community, in Santander department (Magdalena Medio region). Some of the victims were members of a civil society organization opposed to a proposed demilitarized zone for the ELN in southern Bolivar and Antioquia departments. One of the victims was a young pregnant woman.

The authorities charged in absentia FARC 34th front member Fernando Zapata Hinestroza for the killing of 21 police officers and 8 civilians, including 2 children, during the March 2000 attack on the twin towns of Vigia del Fuerte, Antioquia department, and Bellavista, Choco department. The authorities also are seeking the arrest of three other FARC members in this case. Seven police officers captured in the assault were released individually during the year.

Guerrillas killed citizens using bombs, artillery and antipersonnel land mines, and continued their practice of using gas canisters to attack small towns, thereby killing civilians indiscriminately (see Section 1.g.).

The authorities still have not captured FARC eastern bloc commander German Briceno Suarez ("Grannobles") and U'wa tribe member Gustavo Bocota, who have been indicted for involvement in the March 1999 killings of kidnaped foreign activists for indigenous rights Terence Freitas, Lahe'ena'e Gay, and Ingrid Washinawatok near Saravena, Arauca department. The investigation of the case continued at year's end.

At year's end, the authorities had not yet captured Arley Leal and Milton de Jesus Tonal Redondo ("Joaquin Gomez" or "Usurriaga") of the FARC's 32nd Front in connection with the 1998 murder of Father Alcides Jimenez in Putumayo. The Inspector General's office continued to investigate possible government negligence in failing to prevent the killing.

In July the MOD reported that, from January through November, security forces killed 979 and captured 1,623 guerrillas. The Prosecutor General's office reported that as of December it had 98 open investigations against 240 guerrillas, had 227 guerrillas in custody, and had 262 warrants outstanding for the capture of guerrillas.

Approximately 80 cases regarding the country were before the Inter-American Commission on Human Rights (IACHR) at year's end. The great majority involved violations of the right to life. At year's end, the IACHR was expected to make a decision about whether to move a case involving paramilitary and military involvement in the 1996 killing of 19 merchants to the Inter-American Court of Human Rights.

In response to the killings of thousands of members of the Patriotic Union (UP) leftist coalition (see Section 1.g.), a May 2000 law classified "political genocide" as a crime; however, it provided that political genocide could be committed only against members of legally constituted (i.e., nonguerrilla) groups.

The IACHR continued the process of trying to reach an amicable settlement of the UP's 1996 complaint charging the Government with "action or omission" in what the UP termed "political genocide" of the UP and the Communist Party. As part of the process, since June 2000, the Government has provided protection through the Interior Ministry to surviving UP and Communist Party members. Despite these efforts, NGO's reported to the IACHR that at least 20 persons associated with the UP were killed during the year.

There continued to be incidents of social cleansing—including attacks and killings—directed against individuals deemed socially undesirable, such as drug addicts, prostitutes, transvestites, homosexuals, beggars, and street children. The CCJ attributed one social cleansing killing to security forces during the period from June 2000 to June 2001; it attributed 319 killings to paramilitary groups, and 10 to the guerrillas. AUC social cleansing killings of homosexuals, prostitutes, drug users, and mentally ill persons were reported in Barrancabermeja, Cucuta, and numerous other municipalities. Barrancabermeja residents also have reported AUC attempts to impose "social controls" (such as curfews or dress codes) and the exercise of vigilante justice (see Section 1.e.).

b. Disappearance.—The 1991 Constitution and the Criminal Code explicitly prohibit forced disappearance; however, it continued to be a problem. In May 2000, Congress passed legislation that criminalized forced disappearance, genocide, torture, and forced displacement by putting them into the Criminal Code. The law entered into effect in July 2000, allowing these crimes to be tried in civilian courts. Human rights activists noted that the final law did not require that military defendants be tried in civilian, rather than military, courts; however, the reformed Military Penal Code, which entered into effect in August 2000, did include such a requirement (see Section 1.e.). More than 3,700 cases of forced disappearance have been reported formally to the authorities since 1977. Very few have been resolved. Many of the victims disappeared in the course of confrontations between illegal armed groups and the State, or between paramilitaries and guerrillas. The great majority of victims of forced disappearance have never been seen or heard from again. The human rights NGO CREDHOS reported at year's end that 71 persons disappeared between January and November in Barrancabermeja and surrounding areas.

The CCJ attributed five forced disappearances to state security forces in the period from June 2000 to June 2001. The Inspector General's office investigated 183 members of state security forces on disciplinary charges related to massacres and forced disappearances (see Section 1.a.).

The CCJ attributed 296 forced disappearances to paramilitaries in the period from June 2000 to June 2001. In many instances persons kidnaped by paramilitary groups later were found dead (see Section 1.a.).

In mid-April two investigators working on the January massacre in Chengue, Sucre department, disappeared (see Section 1.a.).

The law prohibits kidnaping; however, it remained an extremely serious problem. According to the Free Country Foundation (Fundacion Pais Libre), 3,041 persons, or 8 persons per day, were kidnaped during the year, compared with 3,706 in 2000. Paramilitary groups kidnaped 9 percent of these persons. Guerrilla groups were responsible for 63 percent of the kidnapings. Criminals kidnaped 10 percent. An estimated 205 minors were in captivity as of October. Members of the Government's elite antikidnaping squads known as GAULA (a combined police and military unit) and other units of the security forces freed 697 persons during the year. The Free Country Foundation reported that 98 persons died in captivity during the year. Arrests or prosecutions in kidnaping cases were rare.

According to the MOD, 22 police hostages remain in captivity, and the FARC and ELN were responsible for the forced disappearances of 40 others. The army reports that the FARC kidnaped 24 soldiers and was responsible for the forced disappearances of 51 other soldiers outside combat; the ELN was responsible for the forced disappearances of 8 soldiers. During the year, the FARC released 189 captured soldiers and police (see Section 1.d.). However, the FARC captured 20 soldiers and police in combat. FARC and ELN guerrillas kidnaped 22 police officers and were responsible for the forced disappearances of 40 others. At year's end, the FARC and ELN reportedly held 22 police and 44 soldiers captive.

On March 24, paramilitaries reportedly killed or kidnaped between 24 and 30 persons in La Llorente, Narino department; however, the identities of these persons, their number, and their fate was never confirmed (see Section 1.a.).

On May 16, AUC paramilitaries kidnaped 190 farm workers in southern Casanare department and stated they would begin forcible recruitment in the area. Under pressure from army troops, the AUC released the hostages unharmed after 36 hours.

On June 2, six unidentified assailants kidnaped Embera-Katio indigenous leader Kimi Domico Pernia in Tierralta, Cordoba department. Local Embera-Katio members believe that local paramilitary groups kidnaped Pernia as retaliation for Embera-Katio participation in FARC attacks (see Section 5). In December AUC military commander Salvatore Mancuso told the press that Pernia had been killed.

In October presumed paramilitaries kidnaped 13 fishermen in Ciénaga de Santa Marta, Magdalena department. By October 10, the bodies of 6 of the kidnap victims had been found (see Section 1.a.), while another 3 hostages had escaped.

On November 19, the AUC in a letter to the Governor of Antioquia department reported that on November 18, it had abducted six mayors from eastern Antioquia, as well as their human rights adviser. The kidnaping apparently was in retaliation for meetings that the mayors had held with representatives of the ELN to seek respect for the lives of the civilian population in their municipalities. The ELN unilaterally had committed to a truce until April 2002, demanding in turn that the mayors request that the Government withdraw police from their towns. The paramilitaries released the hostages on November 20.

In March 2000, a paramilitary group led by Jhon Jairo Esquivel Cuadrado kidnaped seven members of the CTI at Minguillo, Cesar department. Esquivel was captured in July 2000 and was awaiting trial at year's end. There were no indications that the abducted investigators were still alive.

Kidnaping continued to be an unambiguous, standing policy and major source of revenue for both the FARC and ELN. According to the Free Country Foundation, politicians, cattlemen, children, and businessmen were the guerrillas' preferred victims. The Foundation reported that guerrillas committed 63 percent of the 3,041 kidnappings reported during the year; ransom payments continued to serve as an important source of revenue for the FARC and the ELN. The FARC often purchased victims kidnaped by common criminals and then negotiated ransom payments with the family. In March 2000, the FARC announced "Law 002," which required persons with more than \$1 million in assets to volunteer payment to the FARC or risk detention. There were many reports that guerrillas tortured kidnap victims (see Sections 1.c. and 1.g.) Several released kidnap victims claim that the FARC are holding more than 200 persons in the despeje zone.

On March 14, ELN guerrillas attacked a wellhead belonging to Occidental Petroleum Colombia and kidnaped an unarmed guard, who was released uninjured a week later.

On April 16, the ELN kidnaped 130 employees of Occidental Petroleum. They released all hostages by April 19.

On July 15, the FARC kidnaped former Meta governor Alan Jara, as he was riding in a U.N. vehicle with the U.N. Development Program (UNDP) Director and government officials. In response to strong and widespread criticism, the FARC alleged falsely that Jara was collaborating with paramilitaries and said that he would be subjected to a "revolutionary trial." At year's end, Jara still was held by the FARC, reportedly in the despeje.

On July 28, the FARC kidnaped 15 persons, including the wife and two sons of a congressman, from a residential building in Neiva, the capital of Huila department (near the border of the despeje). The FARC released six of the captives; however, it reportedly took nine remaining hostages to the despeje.

On September 20, the FARC kidnaped 11-year-old Laura Ulloa from her school bus in Cali. She remained in captivity at year's end.

The FARC also kidnaped Consuelo Araujo, former Minister of Culture and wife of the Inspector General and at least 10 others on September 24 near Valledupar, Cesar department. The other victims were quickly released or rescued by the army, but a guerrilla killed Araujo on September 29 (see Section 1.a.). Within a few days of the Araujo kidnaping, the FARC also took another 65 hostages near Valledupar, who were released quickly due to heavy pressure on the FARC by the army.

On July 26, approximately 70 guerrillas from the FARC's Teofilo Forero Front stormed an apartment complex in Neiva, Huila department and kidnaped 15 persons. Six hostages quickly were released, but the remaining nine reportedly were taken to the despeje.

On November 7, FARC guerrillas kidnaped Mireya Mejia Araujo, a peace counselor in Cesar department. The guerrillas released her on November 29 with a message to the governor that the FARC was concerned over the growth of paramilitary forces and about the need for more social spending.

Andres Felipe Navas, kidnaped at 2½ years of age by the FARC in April 2000, was released in November. (The FARC continued to hold an adult member of the same family at year's end.)

Early in the year, the FARC released Juliana Villegas, daughter of the head of the National Association of Industrialists, whom they had kidnaped in November 2000.

The FARC refused repeated calls from relatives, humanitarian groups, and the public to release police Corporal Norberto Perez, whose 12-year-old son Andres Felipe Perez died of cancer in December.

Guerrillas kidnaped journalists (see Section 2.a.).

Guerrillas continued to kidnap political leaders (see Section 3). During the year, the FARC kidnaped Liberal Congressman Orlando Bernal Cuellar in August, Liberal Congressman Luis Eladio Perez in June, and Huila department Congressman Consuelo Gonzalez in September. At year's end, all three remained in captivity, along with Conservative Party Congressman Oscar Lizcano, who was kidnaped in June 2000. In May the FARC kidnaped Jairo Antonio Correa, the mayor of Dabeiba. The Federation of Colombian Municipalities reported the kidnaping of at least 10 mayors, (3 by guerrilla groups, the rest by unidentified groups) during the year (see Section 3).

The FARC, the ELN, and other guerrilla groups regularly kidnaped foreign citizens throughout the year; some were released after weeks or months of captivity. On July 18, the FARC kidnaped three German nationals (a German government development official, his brother, and a friend). On September 23, the official's brother escaped and reported that the development official was in poor health due to long forced marches and lack of medical attention for a heart condition. The two remaining German hostages were released on October 12. A Slovak priest was kidnaped in September but quickly released. In July 2000, a representative of the NGO Doctors without Borders was kidnaped by a fringe guerrilla group. The victim was released in January and reportedly left the country.

Despite government search efforts and continued pressure by the Government on the FARC to account for three American missionaries kidnaped by FARC guerrillas in January 1993, their whereabouts and condition remained unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and criminal law explicitly prohibit torture, as well as cruel, inhuman, or degrading treatment or punishment; however, there were reports of police and military torture and mistreatment of detainees. In May 2000, Congress criminalized torture (see Section 1.b.), and the reformed Military Penal Code directed that trials of members of the military and police accused of torture be held in civilian, rather than military, courts (see Section 1.e.). The Inspector General's office received 29 complaints of torture by state agents during the year, compared with 101 during 2000. CINEP reported that between January and September state security forces tortured six persons; five cases were attributed to the police, and one case was attributed to the army.

Colonel Jose Ancizar Molano Padilla (then-commander of the 2nd Marine infantry battalion), Captain Alvaro Hernando Moreno, Captain Rafael Garcia, Lieutenant Carlos Eduardo Jaramillo, and four noncommissioned officers were on trial at year's end for torturing 12 marines with asphyxiation and electric shocks in December 1995.

CINEP reported 158 cases of torture by paramilitaries in the period from January through September.

Paramilitary groups increasingly used threats both to intimidate opponents and to raise money. Letters demanding payment of a war tax and a threat to mark victims as a military target if they failed to pay were typical. In 1999 CINEP reported that nearly half of those threatened were public school teachers and that approximately half of all threat recipients were residents of Antioquia department.

Guerrilla groups also tortured and abused persons. The bodies of many persons kidnaped and subsequently killed by guerrillas showed signs of torture and disfigurement. CINEP reported 40 cases of torture by guerrillas during the period from January through September. Numerous former kidnap victims and hostages taken by the guerrillas during combat reported severe deprivation, denial of medical attention, and physical and psychological torture during captivity (see Section 1.b.). The MOD also reported numerous cases of soldiers and policemen tortured or mutilated and killed after surrendering (see Section 1.g.).

Prison conditions are harsh, especially for those prisoners without significant outside support. Severe overcrowding and dangerous sanitary and health conditions remained serious problems. In early June, the Supreme Court of Valledupar, Cesar department, ruled in favor of Valledupar prison inmates who had filed a writ of appeal complaining of lack of water, sanitation, natural light, and prolonged isolation from contact with relatives. The court ordered the Prison and Penitentiary Institute (INPEC) to resolve these problems. There are approximately 7,000 prison guards

from the INPEC who report to the Ministry of Justice. Guards and prison staff frequently are untrained or corrupt.

Only three prisons—Valledupar, Bogota's La Picota prison, and Acacias—appear to meet international standards for treatment of prisoners. In the country's other prisons, inmates pay to eat, drink, sleep on a mattress, wash clothes, or make telephone calls, and also pay protection fees to fellow inmates or to corrupt prison guards. According to the Committee for Solidarity with Political Prisoners, outside, private sources continued to provide the majority of prisoners' food in most prisons. In 1999 INPEC reported that the daily food allowance for each prisoner was \$1.44 (2,700 pesos). In late November, the director of the office of the U.N. High Commissioner for Human Rights in the country, Anders Kompass, described the country's overcrowded prisons to a news conference as terrible.

According to INPEC, in September the country's prisons and jails held approximately 51,251 inmates, 24 percent over their capacity of 41,191; the occupancy rate was 37 percent over capacity at the end of 2000. According to INPEC figures, overcrowding has improved, but remains severe. Medellin's Bellavista prison, the country's largest, housed 6,219 inmates at year's end although it originally was built to house 1,800 inmates (a 245 percent occupancy rate). Bogota's La Modelo prison had a 160 percent occupancy rate, compared with 169 percent in 2000, and the Palmira prison outside Cali held 14 percent above its planned capacity, compared with a 192 percent occupancy rate in 2000.

An estimated 17.8 percent of the country's prisons were between 40 and 80 years old, 3.5 percent between 80 and 201 years old, and 2.4 percent more than 201 years old. The Justice Ministry made significant progress in implementing its plan, announced in February 2000, to renovate prisons and build 11 new prisons and expand prison capacity by 18,000 persons by 2003. During the year, the Government renovated prisons in Valledupar, Acacias, Popayan, Barne, and the high security pavilion in Bogota's La Picota penitentiary. The Government already had completed, had under construction, or had contracted to add 10,600 beds at the end of the year.

An estimated 42 percent of all prison inmates (21,364 persons) are pretrial detainees. The remaining 58 percent (29,887 persons) are split roughly between those appealing their convictions, and those who have exhausted their appeals and are serving out their terms. There are no separate facilities for pretrial detainees and convicted prisoners. According to the MOD, in 2000 a total of 4,145 persons (8 percent of inmates) were in pretrial detention in police stations. Despite a 1999 Constitutional Court ruling that ordered the transfer of detainees from overcrowded police station holding cells to prisons, Bogota's 21 police stations still held 1,657 prisoners awaiting transfer to prisons at the end of 2000, the most recent estimate available.

Local or regional military and jail commanders did not always prepare mandatory detention registers or follow notification procedures; as a result, precise accounting for every detainee was not always possible.

The Government frequently failed to prevent deadly violence among inmates. In the period from January through September, INPEC reported 19 disturbances and 62 violent deaths in the penitentiary system. For example, in January two inmates were killed and one wounded during paramilitary-guerrilla fights at the prison in Bucaramanga, Santander department. In June the ELN kidnaped five paramilitaries from municipal prisons in El Bagre, Antioquia department. Also in June, three inmates died and four more were injured in fighting at the Palmira prison, Valle del Cauca department. On July 2-3, 10 persons were killed and 23 injured in an armed battle between paramilitary and guerrilla convicts in Bogota's La Modelo prison. State security forces were unable to reestablish control for 17 hours. Sixteen inmates reportedly remain unaccounted for following April 2000 fighting between paramilitaries and organized crime groups, which left 27 dead and 43 wounded in Bogota's La Modelo prison.

Escapes from prison continued to be a very serious problem; from January through September, INPEC reported 168 escapes. A total of 781 inmates escaped during 2000, most when granted 72-hour passes to leave the prisons. The Prosecutor General's office and the Inspector General's office continued to investigate abuse of these passes. Some of those who escaped during the year were highly dangerous criminals. On February 19, 20 prisoners escaped from the prison in Neiva, Huila department, when the FARC blew a hole in the wall with a rocket. In early May, Omar Yesud Lopez Alarcon, the head of the northern branch of the paramilitaries who is accused of masterminding a number of massacres, escaped from the Modelo de Cucuta prison. On May 7, the FARC released 65 prisoners from a prison in Caloto, Cauca department, during a FARC attack. On June 23, 98 inmates (including 19 guerrillas) escaped from La Picota prison by blowing a hole in a wall with a gas cylinder. FARC inmates said that FARC commanders had orchestrated the escape. The La Picota incident prompted the resignation of the director of INPEC. On

July 22, 73 prisoners escaped from prison when 300 FARC troops attacked the town of Bolivar, Cauca department.

Key narcotics traffickers and some guerrilla leaders obtain cells with many comforts, some of which—such as access to two-way radios, cellular telephones, and computers—allowed them to continue their illegal activities from inside jail. However, the high security wing of La Picota prison in Bogota has undergone renovations that have altered considerably this comfortable lifestyle.

There are separate prison facilities for women, and in some parts of the country, separate women's prisons exist. Conditions at women's prisons are similar to those at men's prisons but are far less violent. According to the Criminal Procedures Code, no one under the age of 18 may be held in a prison. Juveniles are held in separate facilities operated by the Colombian Institute for Family Welfare (ICBF).

The ICRC continued to have routine access to most prisons and police and military detention centers. The ICRC continues to have ad hoc access to civilians held by paramilitary groups and guerrilla forces. However, the FARC and ELN continue to deny the ICRC access to police or military hostages (see Sections 1.b. and 1.g.).

d. Arbitrary Arrest, Detention, or Exile.—The Constitution includes several provisions designed to prevent illegal detention; however, there continued to be instances in which the authorities arrested or detained citizens arbitrarily.

The law prohibits incommunicado detention. Anyone held in preventive detention must be brought before a prosecutor within 36 hours to determine the legality of the detention. The prosecutor must then act upon that petition within 36 hours of its submission. Despite these legal protections, instances of arbitrary detention continued.

In August the office of the Human Rights Ombudsman, a group of NGO's, and two private individuals filed four Constitutional Court challenges to the 2001 Law on Security and National Defense on the grounds that, among other things, it would infringe on the right to due process of persons detained or investigated by the military (See Section 1.e.). The law does not specify the maximum period detainees may be held before being turned over to civilian authorities.

Conditional pretrial release is available under certain circumstances, for example, in connection with minor offenses or after unduly lengthy amounts of time in preventive detention. It is not available in cases of serious crimes, such as homicide or terrorism.

AUC paramilitaries in the northeastern neighborhoods of Barrancabermeja, Magdalena department illegally exercised "social controls," such as curfews for young persons and punishing domestic violence. In May police had to rescue a man who was kidnaped by the militias and beaten for fighting with his wife in the street.

Guerrillas, particularly the FARC, pressed the Government and Congress to adopt a permanent prisoner exchange law. Initiating regular prisoner exchanges remained a top guerrilla priority and featured prominently in the FARC's negotiating points at the peace talks. Neither the Congress nor the Government attempted to pass such legislation, and there was minimal popular support for it during much of the year. In June the FARC released 42 captured soldiers and police in exchange for 15 imprisoned FARC members, then unilaterally released an additional 247 soldiers and policemen (see Section 1.d.). During the year, 145 soldiers and police either were captured in combat or kidnaped while off-duty are presumed to be held by the FARC or the ELN. The ICRC was not permitted access to them.

The Constitution prohibits exile, and forced exile is not practiced by the State. However, there were numerous instances of individuals pressured into self-exile for their personal safety. Such cases included persons from all walks of life, including politicians, journalists, human rights workers, slum-dwellers, business executives, farmers, and others (see Sections 2.a. and 4). The threats came from various quarters: Some individual members of the security forces, paramilitary groups, guerrilla groups, narcotics traffickers, other criminal elements, or combinations of the above.

e. Denial of Fair Public Trial.—The civilian judicial system, reorganized under the 1991 Constitution, is independent of the executive and legislative branches both in theory and in practice; however, the suborning or intimidation of judges, witnesses, and prosecutors by those indicted or involved is common. The Human Rights Ombudsman's office reported receipt of 568 complaints of denial of the right to due process during 2000, the most recent year for which statistics were available. The office received 773 such complaints in 1999. Judges, prosecutors, and defense attorneys continued to be subjected to threats and acts of violence.

The judiciary includes the Constitutional Court, the Supreme Court of Justice, the Council of State (the appellate court for civil cases), the Superior Judicial Council, and lower courts. The CSJ, which oversees the administration of the judiciary, also has responsibility for determining whether cases involving members of the security

forces are to be tried in civilian or military courts. The Prosecutor General's office is an independent prosecutorial body that brings criminal cases before the courts.

The Constitutional Court adjudicates cases of constitutionality, reviews all decisions regarding writs of protection of fundamental rights ("tutelas"), and reviews all decisions regarding motions for cessation of judicial proceedings. Jurisdictional clashes among the Constitutional Court, the Supreme Court of Justice, the Council of State, and the CSJ were common, due to the lack of a single supreme judicial authority capable of deciding issues of jurisdiction or constitutional interpretation.

In April 2000, the Constitutional Court overturned much of the 1999 law creating a specialized jurisdiction (which had replaced the anonymous ("faceless") regional courts system in July 1999). Arguing that defendants have the right to know the identity of their accusers, the Constitutional Court overturned elements of the law that permitted some prosecutors and witnesses to remain anonymous under exceptionally dangerous circumstances. The Court also ruled that specialized jurisdiction judges and prosecutors no longer could transfer cases to other colleagues when they believed their own security to be at risk.

The Constitutional Court's decision preserved first instance specialized jurisdiction courts created by the 1999 law, which try certain crimes, including kidnaping, hijacking, paramilitarism, guerrilla subversion, narcotics trafficking, money laundering, and human rights abuses. Specialized jurisdiction prosecutors still are permitted 12 months to investigate and develop cases, rather than the 6 months afforded to regular civilian judiciary prosecutors.

The Constitution specifically provides for the right to due process. Judges determine the outcome of all trials; jury trials are rare. The accused is presumed innocent until proven guilty and has the right to representation by counsel, although representation for indigenous people and the indigent historically has been inadequate. In mid-1999, the CSJ's administrative chamber reported that the civilian judiciary suffered from a backlog of approximately 3,069,000 cases (including approximately 604,000 criminal cases) and that there were approximately 338,000 outstanding arrest warrants. Approximately 223,000 writs for protection of fundamental rights ("tutelas") were before the Constitutional Court for its legally mandated review. At year's end, the CSJ reported that the judicial system was extremely overburdened; it received a total of 8.6 million suits in 1994-2000, of which 226,783 were criminal cases filed during 2000. These backlogs have created large numbers of pretrial detainees (see Section 1.c.).

Defendants in trials conducted by the regular courts have the right to be present and the right to timely consultation with an attorney. Regular court defendants and their attorneys have the right to question, contradict, and confront witnesses against them, to present witnesses on their own behalf, and to have access to government evidence relevant to the case. The country's judiciaries, including regular civilian, specialized jurisdiction, and military, continue to be overwhelmingly Napoleonic in character; everything is processed in writing. Public trials are still rare, and there are juries only in rare instances; however, cross-examination of witnesses does occur. Defendants also have the right to appeal a conviction to a higher court.

The Constitution provides for a special criminal and civil jurisdiction within indigenous territories based upon traditional community laws (see Section 5).

As part of the Ministry of Defense, the military judiciary falls under the executive branch, rather than under the judicial branch. The lack of transparency and accountability in the workings of the military judiciary contribute to a general lack of confidence in the system's ability to bring human rights abusers to justice. The new Military Penal Code, which entered into effect in August 2000, denied unit commanders the power to judge subordinates; called for the creation of an independent military judicial corps; and provided legal protection for service members who refuse to obey illegal orders to commit human rights abuses. The reformed code does not allow torture, genocide, and forced disappearance to be related to acts of service—the constitutional standard for trying crimes in the military judiciary. Therefore, these crimes must be tried in the civilian judiciary (see Sections 1.a. and 1.b.). In August 2000, the President issued a directive to the armed forces and the police that excluded from military criminal jurisdiction the crimes of genocide, torture, forced disappearance, and acts against humanity.

The new military justice system is composed of magistrates of the Military Court of Appeals, lower military court judges, investigating judges, prosecutors, and judge advocates (auditor de guerra) at the General Inspector, division, and brigade levels. The Executive Director of the Military Penal Justice, Corps Brigadier General Jairo Pineda, reports directly to the Minister of Defense, a civilian. Military prosecutors report to Brigadier General Pineda, not to unit commanders as under the previous system. The new Military Penal Code provides for the right of representatives of the civilian judiciary to be present at military trials of military personnel.

A 1997 Constitutional Court decision transferred jurisdiction for the investigation and prosecution of serious human rights violations and other alleged crimes not related directly to acts of service from the military judicial system to the civilian judiciary. (Previously the CSJ assigned most cases involving high-level military personnel to the military courts, where convictions in human rights-related cases were rare.) The Constitutional Court ruled that, in the case of doubt, jurisdiction should be assigned to the civilian system. However, in 1998 the CSJ determined that it was not bound by the Constitutional Court's 1997 decision. In that instance the CSJ's decision ended a civilian investigation of the relationship between Brigadier General Fernando Millan and paramilitary groups in Santander department (see Section 1.a.).

The 1991 Constitution provides that general-rank officers be tried by the Supreme Court. The new Military Penal Code provides that the Supreme Court (not the Superior Military Tribunal) has first instance jurisdiction in cases that date from August 12, 1999, involving criminal acts by generals, admirals, major generals, vice-admirals, brigadier generals, rear admirals, and magistrates and prosecutors of the Superior Military Tribunal. Cases that already were in their trial phase before this date must continue under the old military penal code. The new code also makes the Supreme Court the court of second instance review of rulings by the Superior Military Tribunal, thereby giving the Supreme Court—a body composed entirely of civilian magistrates—effective authority over the military judiciary. An August 2000 presidential directive also “raises to the category of law” the 1997 Constitutional Court decision that serious human rights violations and other crimes not directly related to acts of service must be tried by civilian courts.

CSJ figures quoted at the end of 2000 by the Ministry of Defense indicated that when conflicts of jurisdiction arose, the total number of cases assigned to military courts dropped from 50 percent in 1992 to approximately 15 percent in 2000, while cases assigned to civilian jurisdiction rose from 40 percent in 1992 to 60 percent over the same period. During the year, the CSJ assigned 11 cases out of 31 conflicts of jurisdiction involving military or police suspects to the military penal system and 20 cases to civilian jurisdiction.

The military judiciary demonstrated an increased willingness during the year to turn cases of military officers accused of human rights violations or criminal activities over to the civilian judiciary; however, such officers generally were of lower rank. In November the Ministry of Defense released figures that indicated that since the 1997 Constitutional Court decision, the military judiciary has transferred 1,372 cases to the civilian judicial system; there was no information available as to how many of these cases dealt specifically with human rights abuses or violations of international humanitarian law, nor how many cases remained in the military judicial system. However, a March 2000 report by the Ministry of Defense stated that 41 percent of the cases transferred involved serious crimes such as homicide, torture, illegal detentions, and infliction of bodily injuries; the rest were common crimes. Out of the total of 1,314 police and military cases transferred, 58 cases were transferred during the year, 496 cases were transferred in 2000, 79 in 1999, 266 in 1998, 295 in 1997, and 171 cases were transferred on an unknown date.

During 2000 the military judiciary found 122 members guilty of violating “human or fundamental rights.” The average prison sentence was 58 months for homicide and 15 months for inflicting bodily injury.

In a key ruling, the military judiciary convicted General Jaime Humberto Uscategui Ramirez of failing to stop the 1997 massacre in Mapiripan, Meta department (see Section 1.a.). Uscategui was sentenced to 40 months in prison and loss of salary. Uscategui served a reduced sentence, however, and many human rights activists claimed that the message sent by his conviction was undercut by his early release. Furthermore, the key witness against Uscategui, Lt. Col. Hernan Orozco, was sentenced to 38 months imprisonment. Orozco served the entire sentence and was released in November. However, the Constitutional Court announced in November its ruling that the CSJ should transfer Uscategui's case to the civilian judiciary, arguing that Uscategui's alleged crimes were not service-related acts. This ruling, which had not yet been issued formally and implemented by year's end, in essence nullified the military judiciary's conviction, and means that Uscategui's case will fall to the Prosecutor General's office for investigation and prosecution. (Orozco is not expected to face investigation, as the Prosecutor General's office had declined in 1998 to press charges against him.)

In September 2000, the President signed 12 decrees to reform and strengthen the military. One decree provides for the separation from service of all uniformed members of the military regardless of their time in service, at the discretion of the top military commanders. Previously, the Minister of Defense could at his discretion separate from service only those who had served at least 15 years in the military.

Other decrees establish three levels of misconduct and the crimes classified at each level. A total of 27 crimes are punishable with immediate dismissal; these include: torture, forced disappearance, genocide, facilitating by any means the knowledge of protected information or access to classified documents without authorization, failure to enter into combat or to pursue the enemy having the capacity to do so, and retreating before the enemy or abandoning post without having used elements of defense that might be available. A higher-ranking officer such as a unit commander is granted initial authority to issue disciplinary sanctions. Those under investigation may be suspended for up to 90 days with half pay; those suspended may perform administrative duties. The decrees also state that in the event that another authority should learn of crimes, the military must inform that authority and provide all relevant information to it. Another decree states that, with limited exceptions, any officer sentenced to prison by the military or the civilian justice system is to be separated from service.

From October 2000 through the end of 2001, the military dismissed a total of approximately 600 members; however, it was not known how many discharges were for collaborating with paramilitary groups. No information was available from the MOD regarding the specific reasons for any of the dismissals, nor were their names announced. It was not known how many were dismissed due to allegations that they were responsible for human rights abuses or for collaborating with paramilitary groups in such abuses. The MOD has confirmed the claims of many human rights NGO's that a large number of those dismissed have entered the ranks of illegal paramilitary groups.

When military officers were tried, convicted, and sentenced for human rights violations, they generally did not serve prison terms but were confined to their bases or military police detention centers, as permitted by law. The Ministry of Defense reports, and the Prosecutor General's office concurs, that military and police prisoners charged by civilian prosecutors routinely are suspended from their duties and placed on half-pay. Officers and noncommissioned officers are removed from any command duties. Some perform administrative functions while in detention. Armed Forces Commander General Tapias has cited a lack of adequate military prison facilities as a primary cause for escapes from military detention areas. To address these concerns, in September Minister of Defense Bell announced that a new high security prison would be opened at Tolemaida military base in October. Although the military is responsible for operating the facility, the civilian INPEC will provide oversight.

On August 13, the President signed the Law on Security and National Defense (Law 684 of 2001), which among other things, expanded the authority of the armed forces to detain suspects in the absence of civilian authorities. Various human rights groups protested the law's final version. Four different lawsuits (one by the Human Rights Ombudsman's office, one by a group of NGO's, and two by individuals) challenging the law have been filed before the Constitutional Court (see Section 1.d.). They contend that various aspects of the law violate the right to due process as provided for in the Constitution and the Criminal Code. Article 58 of the law does not limit specifically the time the military can detain a suspect before turning that person over to civilian law enforcement, although Article 70 mandates that suspects be turned over to civilian authorities as soon as time and distance permit, and that any delay must be justified appropriately. Article 60 gives civilian authorities up to 60 days from the receipt of a complaint of a human rights violation to decide whether to investigate formally alleged crimes by military or police during operations, significantly less than the year allowed for investigations of civilian authorities. Some legal experts also have complained that the provisions that allow the Government to declare a zone a military theater of operations, in effect, give military commanders authority over regional civilian authorities. While the law does not grant explicitly military commanders authority over regional civilian authorities, it permits the President to delegate to the military the authority to enforce presidential decrees and orders.

Judges have long been subject to threats and intimidation, particularly when handling cases involving members of the public security forces or of paramilitary, narcotics, and guerrilla organizations. Violent attacks against prosecutors and judges continued, and prosecutors, judges, and defense attorneys continued to be subjected to threats and acts of violence. Prosecutors reported that potential witnesses in major cases often lacked faith in the Government's ability to protect their anonymity and were thus unwilling to testify, ruining chances for successful prosecutions.

For example, in March Bogota judge Lester Gonzalez Romero received threats which appeared to be related to important cases she had tried or is trying, such as the three 1997 CINEP murders, the 1997 Mapiripan massacre, and the 1995 assassination of Alvaro Gomez. Also in March, Medellin judge Adalgisa Lopera

Aristizabal and her family left the city following a death threat. Judge Lopera was trying terrorism, narcotics, and paramilitarism cases.

The investigation continues of the April 2000 murder of specialized jurisdiction prosecutor Margarita Maria Pulgarin Trujillo in Medellin; AUC members were the prime suspects in her killing. One suspect has been charged in absentia; no one has been detained in the case.

On August 29, presumed paramilitaries killed Yolanda Paternina, a prosecutor investigating the January Chengue massacre, in Sincelejo, Sucre department. Two other investigators working undercover on the case disappeared in mid-April near Berrugas, Sucre department. There have been no arrests in these cases.

In July the reformed Criminal Code and Criminal Procedure Code went into effect. The revised code created a number of new crimes such as genocide (see Section 1.a.), but reduced the sentences for a number of serious crimes, including kidnaping and extortion, and the amount of time served necessary for parole.

The Inspector General's office investigates misconduct by public officials, including members of the military and police. The Inspector General's office can draw upon a nationwide network of hundreds of government human rights investigators covering the country's 1,097 municipalities. The office received 228 complaints related to massacres and forced disappearances during the year, compared with 201 in 2000. Of complaints received during the year, 146 are under preliminary investigation, 23 resulted in formal disciplinary investigations, and 14 resulted in formal charges being filed. Of the 101 persons under investigation at year's end for complaints related to massacres and forced disappearances, 45 were army, 28 were police, 5 were air force, 22 were marines, and 1 was from the INPEC. The Inspector General's office can only impose administrative sanctions; it has no authority to bring criminal prosecutions or impose criminal sanctions but can refer all cases to the Prosecutor General's office for investigation. The Inspector General's office referred all cases of human rights violations received during the year to the Prosecutor General for investigation, and reported that the majority of these cases are investigated by the Prosecutor General's office.

The Supreme Court elects the Prosecutor General for a 4-year term, which does not coincide with that of the President, from a list of three candidates chosen by the President. The Prosecutor General is tasked with investigating criminal offenses and presenting evidence against the accused before the various judges and tribunals. However, this office retains significant judicial functions and, like other elements of the civilian judiciary, it is struggling to make the transition from a Napoleonic to a mixed legal system that incorporates an adversarial aspect.

In an attempt to address impunity, the Prosecutor General in 1995 created a special human rights unit as part of the regional courts system. As of December, the group of 30 prosecutors had 788 open cases involving massacres, extrajudicial killings, kidnapings, and terrorism during the year, with 1,342 suspects under investigation, of which 234 were members of state security forces. The unit's prosecutors have issued arrest warrants against members of the security forces and of paramilitary, guerrilla, and drug trafficking organizations. As of December, the human rights unit had under arrest 275 members of state security forces, had charges filed against 214, and had 56 members of the state security services on trial for a variety of charges including homicide, torture, kidnaping, and sponsorship of paramilitary groups. The security forces demonstrated a greater willingness to follow up with instructions that those ordered arrested be removed from their duties, denied the right to wear a uniform, or turned over to civilian judicial authorities. The Ministry of Defense and the Fiscalía reported that all military and police charged with a human rights crime are suspended from their duties and placed on half-pay. At year's end, 107 military and 74 police were suspended. However, for various reasons including lack of resources for investigation, lack of protection for witnesses and investigators, lack of coordination between government organs, and in some cases, obstruction of justice by individuals, impunity continued to be very widespread.

In addition to providing public defense attorneys in criminal cases, the Human Rights Ombudsman's 34 departmental and regional offices throughout the country provide a legal channel for thousands of complaints and allegations of human rights violations. However, in practice the Ombudsman's operations are underfunded and understaffed, slowing its development of a credible public defender system. Human Rights Ombudsman Eduardo Cifuentes was active during the year in criticizing and reporting human rights violations and in visiting the sites of massacres. His office has worked to improve training and support of its personnel and has begun to build a nationwide Early Warning System, now operational, to help prevent massacres.

Within the FARC-controlled despeje zone, local FARC leaders effectively supplanted judicial authorities and declared the establishment of an alternative, FARC-run "justice system." In the face of FARC intimidation, all elements of the civilian

judiciary fled the zone. Residents of the zone regularly were denied the right to a fair trial. Continuing concern about arbitrary FARC justice in the zone led the authorities to stress that governmental justice must be present.

The Government states that it does not hold political prisoners.

The Government granted the ICRC access to monitor approximately 3,900 cases of imprisoned citizens accused of terrorism, rebellion, or aiding and abetting the insurgency, which are crimes punishable under law.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the protection of these rights; however, at times the authorities infringed upon them. The law generally requires a judicial order signed by a prosecutor for the authorities to enter a private home, except in cases of hot pursuit. The MOD continued training public security forces in legal search procedures that comply with constitutional and human rights. Due to intimidation, corruption, or the absence of evidentiary proof collected directly by prosecutors, judicial authorities routinely set free paramilitary and guerrilla suspects captured by the security forces in or out of combat.

The authorities may intercept mail or monitor telephones only with a judicial order. This protection extends to prisoners held in jails. However, various state authorities sometimes monitored telephones without obtaining prior authorization. There were unconfirmed reports by some human rights groups that members of the security forces subjected them to surveillance, harassment, or threats (see Section 4).

In April then-Prosecutor General Alfonso Gomez Mendez announced a formal investigation of extensive illegal wiretapping by the Medellin GAULA (a combined police and army antikidnapping unit)(see Section 1.b.). Investigators working on the October 2000 disappearance of ASFADDES workers Angel Quintero and Claudia Patricia Monsalve uncovered evidence that the GAULA tapped 2,500 telephone lines without proper authorization, including those of ASFADDES and other human rights organizations (see Section 4). Police captain Harvey Gerardo Grijalba Suarez was arrested but subsequently released for lack of evidence. Nine other persons, including two other police officers, were investigated but not charged in the case. Prosecutors are investigating the April 4 murder of police officer Carlos Ceballos Gomez, who testified in the case (see Section 1.a.). The Inspector General's office is conducting a separate disciplinary investigation.

In August the Prosecutor General's anticorruption unit cleared six members of the DAS who were suspected of illegal wiretapping in Bogota over the course of several years.

Guerrillas used wiretaps and accessed bank accounts of citizens at roadblocks to select kidnap victims.

In 1999 the Government announced that no one under the age of 18 could enter military service, even with the consent of a parent; previously, individuals over 16 years of age but below age 18 could volunteer to join the military with parental permission but were barred from serving in combat.

The Ministry of the Interior reported increased recruitment of minors by illegal armed groups during the year. The MOD reported that an increased number of minors deserted from illegal armed groups; 93 children under the age of 18 surrendered to state security forces during the year, compared with 72 in 2000 and 29 in 1999.

In August the Human Rights Ombudsman reported increased recruitment of minors by paramilitary groups. In late July, a previously unknown armed group kidnaped 10 youths, whom they first attempted to recruit, from a government youth center in Villavicencio, Meta department. It is suspected, but not established, that this group was paramilitary. In August paramilitary groups forcibly recruited 20 young men between the ages of 16 and 25 from 3 villages in Casanare department.

The use of child soldiers by guerrillas was common. NGO's and the Government strongly and repeatedly criticized guerrilla recruitment of children. The Government estimates that both paramilitary groups and guerrillas engage approximately 6,000 children as combatants. In 1999 the FARC promised visiting Special Representative of the U.N. Secretary General on Children in Armed Conflict Olara Otunnu that it would stop forcing children into its ranks; however, it continued the practice, and during the year, the number of children recruited appeared to increase. Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem. Former child guerrillas have testified to rape, mandatory use of intrauterine devices, and forced abortions. Child soldiers, including girls, were seen in guerrilla ranks in the despeje, and reports from various sources indicate that the guerrillas recruited at least 120 minors, but possibly many more, in the despeje. According to press reports, at least one third of the guerrillas were under the age of 18. The Roman Catholic Church

and teachers reported that the FARC lured or forced hundreds of children from the despeje zone into its ranks. According to press reports, families from the demilitarized zone, as well as from Arauca, Valle del Cauca, and Antioquia departments have fled their homes because guerrilla groups have tried to impress their children. In February the FARC handed over 62 child guerrillas, ranging from 12 to 16 years of age, to the Government. The children had been serving in the FARC for up to 3 years. According to press reports, in August 2000, members of the FARC killed a school rector in Meta department for criticizing the recruitment of his students.

Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, it also regularly impressed children into its ranks.

Paramilitary groups and guerrilla forces also regularly forcibly recruited indigenous persons to serve as soldiers.

Children were also among the preferred kidnaping targets of guerrillas (see Section 1.b.).

Guerrillas continued a policy of killing, attacking, and threatening off-duty police and military personnel, their relatives, and citizens who cooperated with them.

Former female guerrillas have reported forced abortions and forced implantation of intrauterine devices (see Section 1.g.).

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—The internal armed conflict and narcotics trafficking are the central causes of violations of human rights and international humanitarian law. Government security forces at times violated international humanitarian law and continued to commit serious human rights abuses; however, paramilitary groups and guerrillas committed the great majority of serious abuses. The CCJ analyzed CINEP data from June 2000 to June 2001 and attributed 3 percent of civilian victims and persons killed outside of combat to state security forces, compared with 3.5 percent in 1999–2000.

May 2000 legislation classified forced displacement as a crime; however, military counterinsurgency operations, forced conscription by paramilitary and guerrilla organizations, and guerrilla incursions often forced peasants to flee their homes and farms, and there was a very large population of IDP's (see Section 2.d.). Between 275,000 and 347,000 displacements of persons occurred during the year; the vast majority of IDP's are peasants who have been displaced to cities.

In response to the killings of thousands of members of the Patriotic Union leftist coalition, the May 2000 law classified "political genocide" as a crime (see Section 1.a.). However, it provided that political genocide could be committed only against members of legally constituted (i.e., nonguerrilla) groups.

In March the ICRC again suspended evacuations of wounded combatants following an incident near Aguachica, Cesar department, in which paramilitaries kidnaped a wounded ELN guerrilla who was being moved in a Colombian Red Cross vehicle. The wounded man later was found dead. The ICRC had resumed evacuations in December 2000, after a previous suspension occasioned by two similar murders (one by paramilitaries and another by FARC guerrillas) during October 2000. Evacuations of combatants remained suspended at year's end.

The ICRC reported that the Government, including military authorities, followed an open-door policy toward the ICRC and readily incorporated Red Cross curriculums on international humanitarian law in standard military training. However, impunity remains a problem. According to military sources, local commanders often transferred or discharged soldiers accused of serious human rights violations, rather than initiate legal proceedings. It remained unclear how many suspected human rights violators were investigated or prosecuted after being dismissed (see Section 1.e.).

A court ruling exonerated the soldiers involved in the August 2000 killing of six children by an army unit; however, the Superior Military Tribunal returned the case for reconsideration.

In June a military judge ordered the arrest of air force Captain Cesar Romero Pradilla, air force Lieutenant Johan Jimenez Valencia, and air force flight technician Hector Mario Hernandez for the December 1998 bombing of civilians in Santo Domingo, Arauca department by an air force helicopter; however, the three were freed on bail. In January the Inspector General's office charged Romero, Jimenez, Hernandez, and army major Juan Manuel Gonzalez with indiscriminate use of force.

Both the paramilitaries and the guerrillas continued blockades or illegal checkpoints in several areas around the country, in many cases causing severe shortages of food and medicine, straining local economies, and increasing forced displacement, particularly in Choco, Antioquia, Cauca, Magdalena Medio, Bolivar, Cesar, and La Guajira departments (see Section 2.d.). For example, by midyear the ELN had destroyed a bridge near Tibu three times, causing sharp increases in local food prices.

According to the army and independent monitors, there are an estimated 130,000 antipersonnel landmines in the country, with minefields in an estimated 140 municipalities around the country, and covering approximately 90,000 square miles of the country's territory. At year's end, the military maintained approximately 18,000 mines to defend static positions; the remaining mines were placed by illegal armed groups. According to the Ministry, antipersonnel mines killed 16 and wounded 75 military personnel during the year, and 14 civilians (9 of them children) were injured in minefields during the year.

The Human Rights Ombudsman's office stated in its 2000 report that women, who by and large remain socially and economically disadvantaged, continued to be affected disproportionately by violence, especially in war zones (see Section 5). The Ombudsman's office also noted a lack of government programs to address their problems. Female leaders of political and peasant organizations in various regions are the targets of persecution, threats, torture, and executions. Intrafamilial violence, sexual assault, and murder of women remained serious problems throughout the country (see Section 5). More than 30 percent of FARC members are female. Several observers have criticized the use of female combatants in guerrilla organizations as sex slaves (see Sections 1.f. and 5).

U.N. High Commissioner for Human Rights Mary Robinson in her report noted that all sides in the conflict failed to respect the principles of humanitarian law. She said that "the conflict has deteriorated to such an extent that combatants are disregarding the most basic humanitarian precept . . . the defenseless civilian population and children continue to be the principal victims of these actions." In November the World Food Program reported that armed groups had been hijacking trucks carrying deliveries intended for displaced children.

There were no reports during the year that the Government militarized public hospitals in conflict areas, which had increased the risk that the hospitals would become targets of guerrilla attack. In March 2000, the Constitutional Court ruled that state security forces could not maintain installations (such as police stations) next to schools, to avoid endangering the lives of students in case of guerrilla attacks; however, this continued to be the case in some communities. There were no reports that the State refused medical treatment to guerrillas.

The 1997 establishment of the AUC as a national paramilitary umbrella organization was designed both to provide a national structure, to coordinate logistics and offensive operations, and to develop a more coherent political movement. Although illegal, some early paramilitary groups reflected rural citizens' legitimate desire to defend themselves from the guerrilla threat. Other groups were actually the paid, private armies of drug traffickers or large landowners. Many members of paramilitary groups are former security force members or former guerrillas. The AUC umbrella group, according to military estimates, comprises between 8,000 and 11,000 combatants, who are members of 7 major blocs. (The AUC has claimed there are 15,000 paramilitary combatants.) The largest of these organizations is the ACCU, which is based in Cordoba department and the Uraba region of Antioquia department. On May 26, Carlos Castano formally stepped down as the military head of both the AUC and the ACCU and was replaced by a 9-member "military command"; however, he retained control of the AUC's political wing. Castano admitted publicly in 2000 that his group receives funding from both legitimate businesses and from narcotics trafficking, and that the group is financed by "dominant businesses" in the regions in which it operates. In November Castano announced at an AUC convention that the AUC would no longer commit massacres; however, it remained unclear at year's end what the effect of this announcement would be.

On May 24, units of the CTI and the army launched raids on homes and offices of suspected paramilitary financiers in the cities of Monteria, Cordoba department; Medellin, Antioquia department; and in Santander department. The seizure of financial documents revealed that legitimate businesses finance the right wing groups.

Some local army and police commanders tacitly tolerated—and sometimes aided and abetted—the activities of paramilitary groups, despite the public pronouncements of the Government and the public security forces' high command that they intended to combat paramilitary violence (see Sections 1.a. and 1.c.). The President, other government officials, the UNHCHR, and various NGO's noted increasing popular support for paramilitary groups during the year, spurred in part by continued human rights violations by the guerrillas.

Paramilitary groups used selective killings and systematic massacres to force displacements and punish civilians for perceived ties to the guerrillas (see Section 1.a.). During the year, paramilitary groups continued to commit numerous massacres but also appeared to rely increasingly on selective killings and forced disappearances of civilians to establish territorial control and to advance their political goals. By the

year's end, the CCJ attributed 2,545 deaths to paramilitaries from June 2000 to June 2001, compared with 2,199 in 1999–2000.

The Government increased its efforts to combat paramilitary groups. State security forces captured 992 paramilitaries during the year, compared with 312 in 2000, and killed in combat 116 paramilitaries during the year, compared with 92 in 2000. Law enforcement officials also have begun to investigate and prosecute more aggressively persons who finance the paramilitaries.

Paramilitary groups on occasion used landmines. In August the Human Rights Ombudsman reported increased recruitment of minors by the paramilitaries (see Section 1.f.). Paramilitary forces failed to respect the injured and medical personnel. On numerous occasions, medical personnel and hospitals were declared "military objectives."

The 2 main guerrilla armies, the FARC and the ELN, as well as the much smaller EPL and other groups, commanded an estimated total of 21,645 full-time guerrillas operating in more than 100 semiautonomous groups throughout the country. These groups undertook armed actions in nearly 1,000 of the country's 1,097 municipalities. Both the FARC and the ELN systematically attacked noncombatants and violated citizens' rights through the use of tactics such as killings, forced disappearances, the mutilation of bodies, attacks on churches, attacks on hospitals, attacks on ambulances, and executions of patients in hospitals (see Sections 1.a., 1.b., and 1.c.). Guerrilla groups also were responsible for multiple abuses of religious and medical personnel. For example, on January 10, the FARC stopped an ambulance carrying a woman in labor to a hospital in Antioquia. Despite the pleas of the attendants, the guerrillas burned the vehicle, and the woman endured a difficult breech delivery in a nearby house (although she and the baby reportedly survived). Indiscriminate attacks on police stations resulted in high numbers of civilian casualties. Guerrillas also killed religious leaders (see Section 2.c.) and indigenous people (see Section 5).

Guerrilla organizations continued to pursue strategies that routinely led them to commit abuses against citizens. Their tactics consistently included killings, kidnaping, torture, targeting of civilian populations and installations (including medical facilities), and the forced recruitment of children as young as 10 years old (see Sections 1.a., 1.b., 1.c., and 5). In July Human Rights Watch directed an open letter to FARC commander-in-chief Manuel Marulanda that cited various abuses and called on the FARC to respect human rights and international humanitarian law. The FARC failed to respond substantively to any of the letter's points; instead, it accused Human Rights Watch of being a tool of a foreign government.

Guerrillas also massacred civilians, and continued to be responsible for a significant percentage of massacre victims and other civilian deaths related to the conflict. According to CCJ, the guerrillas were responsible for 101 massacre victims (10 percent of the total number) during the year. CCJ estimates that the guerrillas are responsible 22 percent of total civilian deaths related to the conflict since 1995. The Ministry of Defense reported that 1,060 civilian deaths were attributed to guerrilla groups during the year (out of a total of 2,088 civilian deaths related to the conflict) (see Section 1.a.).

Guerrillas used landmines both to defend static positions (such as base camps, cocaine laboratories, and sites at which kidnap victims were held) and as indiscriminate weapons of terror. The Vice President's office reported in 2000 that the FARC and ELN have laid indiscriminately 50,000 mines in rural areas. Landmines planted by guerrillas or disguised as everyday items such as soccer balls or paint cans often resulted in the killing or maiming of civilian noncombatants; thousands of IDP's were unable to return to their homes due to the presence of antipersonnel mines (see Section 2.d.). According to press reports, landmines surround guerrilla bases in the despeje zone. The FARC used sulfuric acid in the gas canisters that it employed as artillery and continued its practice of using these canisters to attack small towns. Scores of soldiers, police, and civilians were burned indiscriminately as a result.

In April FARC rebels raided the village of Caucana, Antioquia department. Using guns and gas canisters packed with explosives to attack a gas station and other buildings, they killed an estimated 25 persons, including 7 children.

Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, both the ELN and the larger FARC regularly forced children into their ranks (see Section 5). According to various witnesses and to former child guerrillas, once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem, and former child guerrillas have testified to rape, mandatory use of intrauterine devices, and forced abortions. Child soldiers, including girls, were seen in guerrilla ranks in the despeje, and reports from various

sources indicate that the guerrillas recruited at least 120 minors, but possibly many more, in the despeje. In addition, many families reportedly left the despeje (or have been displaced from other regions) to escape forcible recruitment of their children. According to press reports, in April 2000, FARC military commander Jorge Briceño Suarez ("Mono Jojoy") admitted that the FARC often had committed serious abuses against civilians, and that the FARC regularly used child combatants.

Paramilitary-guerrilla violence resulted in a number of civilian casualties in the wake of ongoing targeted or massive killings by both sides. According to Ministry of Defense figures, 2,088 civilians were killed in violence related to the internal conflict during the year. Of these, 1,028 were killed by paramilitaries, and 1,060 by guerrillas.

The FARC staged many attacks against municipalities outside of the despeje, possibly in an effort to expand its area of control beyond the demilitarized zone. For example, on February 24, the FARC's 21st front attacked San Antonio, Tolima department with gas cylinders loaded with grapeshot, killing two persons, injuring two more, and kidnaping one policeman. They destroyed the police station, the city hall, the bank, and 10 houses. On March 20, the FARC's 29th front killed 5 civilians and destroyed 35 houses in Bocas de Satinga. On April 1, the FARC's 13th front destroyed the police station, several public buildings, and houses in Almaguer, Cauca department and left several mines planted in the area.

On November 16, combined FARC and ELN columns attacked the town of Bolívar, Cauca department. The guerrilla forces ransacked and destroyed the local bank, mayor's office, police station, and most of the town plaza. Eventually they surrounded the town's 24 police officers. The unarmed townspeople organized themselves, marched toward the guerrillas, created a human shield to protect the policemen, and demanded that the guerrillas leave town, which they did. Earlier on November 13, the FARC had attacked the town of Caldoño in the same department. The population also had organized itself, confronted the FARC unarmed, and forced the guerrillas to leave the town. On December 31, FARC guerrillas shot to death indigenous law student Jimmy Guauna Chicangana, as he and fellow citizens in Purace, Cauca department, participated in unarmed civil resistance in the town square.

The FARC continued to kidnap, torture, and kill off-duty soldiers and policemen, as part of its openly announced "Plan Pistola" strategy (see Sections 1.a., 1.b., and 1.c.). For example, on July 1, in Cundinamarca department the FARC kidnaped an off-duty and unarmed army sergeant and three soldiers who later were found dead and whose bodies showed signs of torture (see Section 1.a.).

The FARC committed numerous abuses against civilians in the despeje. The FARC was responsible for killings; alleged cases of forced disappearance; rape; arbitrary detention infringement of the rights to free speech, freedom of religion (see Section 2.c.), and fair trial (see Section 1.e.); forced political indoctrination; and the forced recruitment of hundreds of children (see Section 1.f.). According to press reports, the FARC stated publicly in 2000 that all persons between the ages of 13 and 60 in the despeje zone are liable for military service with the guerrillas; families fleeing the zone reported that they were asked to surrender children to the FARC as of their 14th birthday.

Guerrillas, usually the ELN, caused massive damage to the country's power industry and increases in electricity rates for consumers. ELN sabotage in December 2000 and FARC attacks in March left several towns in the Uraba region without electricity for weeks at a time, causing economic and health problems. In October FARC and ELN attacks caused power outages in the departments of Cesar, Bolívar, and Córdoba. Guerrilla attacks on oil pipelines also caused considerable environmental damage. Press reports indicated that as of July, there had been more than 100 guerrilla attacks on the Occidental Petroleum Corporation pipeline in Arauca department.

In November prosecutors charged 1 suspected ELN guerrilla who was detained, and continued to seek the arrest of 7 others, for terrorism, homicide, and injury in connection with the 1998 pipeline explosion in Machuca, Antioquia department, which killed 73 persons (including 36 children), injured 32 more, left over 1,000 persons homeless, and caused extensive environmental damage. Prosecutors charged in absentia ELN commanders Nicolás Rodríguez (alias "Gabino") and Herlington Chamorro (alias "Antonio García") and four others. In September 2000, the ELN reportedly held an internal trial. The ELN claimed to have expelled guerrillas from its ranks for involvement in the crime.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of the press; and the Government generally respected this right in practice; however, jour-

nalists regularly practiced self-censorship to avoid retaliation and harassment by various groups. The privately owned print media published a wide spectrum of political viewpoints and often voiced harsh antigovernment opinions without fear of reprisals. A ban on the publication of evidence pertaining to criminal investigations, based on the secrecy provisions of the Penal Code and an anticorruption statute, remained in effect. During the year, journalists were intimidated, threatened, kidnaped, and in some cases killed, primarily by paramilitary groups and guerrillas. There were also reports of a significant number of threats from local officials accused of corruption. Fearing for their safety, journalists often refrain from publishing or broadcasting stories counter to the interests of paramilitary groups, guerrillas, or narcotics traffickers.

The NGO Reporters Without Frontiers reported that 12 journalists were killed during the year. Of these, 3 cases appeared related to the victim's work as a journalist, 4 victims were murdered for other reasons, and the motive for the other 5 cases was undetermined. The Colombian Press Freedom Foundation reported that 7 journalists were killed during the year, and that there were 51 cases in which journalists reported receiving threats. NGO's and international organizations reported obvious self-censorship by the press due to threats from illegal armed groups. In July Organization of American States (OAS) Rapporteur for Freedom of Expression Santiago Canton called for the effective investigation of continuing murders of journalists, and said that violence against journalists places at serious risk the right to freedom of expression and information of all citizens. In October Reporters without Frontiers noted that the paramilitaries were the main threat to press freedom, and in May the Committee to Protect Journalists released a list of the 10 worst enemies of press freedom that included Carlos Castano of the AUC. At least 19 journalists reported being threatened, and 6 had left the country at midyear. These figures are thought to be low, since many victims do not report threats to the authorities or to NGO's.

In June state police officers struck media workers from RCN and Caracol radio stations and destroyed a camera, as the journalists were recording the detainment of a student protester. Charges were filed against the two police officers.

In May AUC leader Carlos Castano reportedly acknowledged in an interview with *Le Monde* that the AUC had killed journalists Luis Fernando Velez Castano and Hector Dario Velez Castano, whom the AUC accused of being guerrillas. The two victims were the brothers of the deputy manager of television channel TeleMedellin.

On April 27, journalist Flavio Bedoya, who worked for the Communist Party weekly *Voz*, was killed in Tumaco, Narino department. According to the Inter-American Press Society, Bedoya had received threats from paramilitaries. On May 21, police bomb disposal experts defused a bomb packed into a pick-up truck outside of the offices of *Voz*.

Authorities are investigating the April 30 murder of Carlos Trespalacios, communications director for the municipal sports and recreations institute in Medellin, Antioquia department.

On May 3, Cali-based Telepacifico TV sports reporter Yesid Marulanda Romero was killed. On May 18, the FARC murdered Edgar Tavera Gaona, a local radio reporter in Santander department.

On June 27, the FARC kidnaped Pablo Emilio Parra Castaneda, a radio station owner, reporter, and Colombian Red Cross local official. The FARC had accused him of collaborating with paramilitaries. Parra later was found dead.

On July 4, unidentified men shot and killed radio station director Arquimedes Arias Henao in Fresno, Tolima department. Arias deliberately had focused his broadcasts on music and culture due to the dangers of reporting on more politically sensitive events.

On July 6, two unidentified men on a motorcycle shot and killed radio reporter Jose Duviel Vasquez in Florencia, Caqueta department. Vasquez had replaced Alfredo Abad Lopez, who was killed in a similar manner in December 2000, as the director of Voice of the Jungle radio station, a Caracol affiliate. In November 2000, unidentified assailants also had killed reporter Guillermo Leon Agudelo in Florencia. In December 2000, the authorities formed a special unit to investigate the murders of both Abad and Agudelo, and the Florencia mayor's office offered a \$10,000 reward for information leading to arrests in these cases. The murders remained under investigation at year's end.

On July 8, unidentified men shot and killed Jorge Enrique Urbano in the port city of Buenaventura, Valle del Cauca department. Urbano had been the director of Radio Buenaventura, had served as the press secretary of the Buenaventura mayor's office, and directed a NGO dedicated to building public parks. It was unclear whether Urbano's murder was related to his work as a journalist.

On July 16, unidentified gunmen shot and killed Eduardo Estrada Gutierrez in San Pablo, Bolivar department. Estrada was president of the Association for the Development of Communications and Culture in San Pablo and was working on the implementation of a community radio station in the municipality. Estrada was the second person involved with a community radio program to have been killed during the year.

In November hooded gunmen killed Heriberto Cardenas in Buenaventura. Cardenas worked as a radio reporter as well as a correspondent for *El Tiempo* and *El Espectador*; however, he had withdrawn from journalism in 2000 and only occasionally made any contributions.

The investigation continued into the November 2000 murder of local radio reporter Gustavo Rafael Ruiz Cantillo in Pivijay, Magdalena department.

The investigation continued into the September 2000 murder by paramilitary members of Carlos Jose Restrepo Rocha, the publisher of *TanGente* newspaper in Tolima, a municipal council candidate, and a former member of the now-inactive M-19 guerrilla group.

Two suspected paramilitaries were on trial for the 1999 murders of journalists Alberto Sanchez and Luis Alberto Rincon. A third suspect was charged but died before the trial.

Prosecutors are appealing the decision of a Valledupar judges to absolve suspected paramilitaries Rodolfo Nelson Rosado Hernandez (alias "El Pichi") and Jorge Eliecer Espinal Velasquez ("El Parce") for the 1999 murder of newspaper editor Guzman Quintero Torres in Valledupar, Cesar department.

At year's end, paramilitary and La Terraza gangster Juan Pablo Ortiz Agudelo (alias "Bochas") was appealing charges filed against him for the 1999 murder in Bogota of journalist, comedian, and human rights activist Jaime Garzon Forero (see Section 1.a.).

The Supreme Court upheld a Neiva judge's decision to exonerate three men charged with the 1998 murder of journalist Nelson Carvajal Carvajal. There were no other suspects detained in the case.

According to the Free Country Foundation, five journalists were kidnaped during the year.

On March 16, the FARC kidnaped journalist and international affairs commentator Guillermo Angulo and two other persons in Choachi, Cundinamarca department. Angulo was held for 5 months.

In June journalist Carlos Reina was kidnaped in Yopal, Casanare department. In July Telecaribe journalist Ramon Campo Gonzalez was kidnaped in Santa Marta, Magdalena department.

On June 23, armed men kidnaped journalist Carlos Alberto Reina Camargo, as he traveled with his family in Boyaca department. Reina was released on July 6.

On June 30, four armed men kidnaped cable television executive and journalist Ramon Ocampo Gonzalez in Magdalena department as he was driving to his family farm. Ocampo is a member of a politically influential family and was also a member of the regional coffee growers association. The authorities suspect that the FARC was responsible. Ocampo was released on July 4.

An investigation continued of the May 2000 kidnaping and rape of Jineth Bedoya Lima, a reporter for the *El Espectador* newspaper. Bedoya was kidnaped while on her way to interview a convicted paramilitary leader at the Modelo prison in Bogota, raped, and subsequently released in Meta. *El Espectador* had received threatening letters against her and other journalists. AUC leader Carlos Castano denied that the AUC was involved. There have been no arrests in this case.

On February 26, two bombs went off at the home of radio reporter Zoraida Ariza in Saravena, Arauca department. In August the ELN detonated a bomb targeting Caracol Radio's Medellin offices. No one was injured in the blast.

At least five journalists left the country during the year, and several well-known journalists remain in exile. In late January, RCN prime time journalist and host of RCN top-ranking opinion show *La Noche* Claudia Gurisatti left the country for 3 months, following an alert from the authorities of a plot to kill her. Three men were arrested for conspiracy to kill Gurisatti, which appears to have been organized by the same FARC front also thought to be responsible for the December 2000 murder of congressional peace commission president Diego Turbay (see Section 1.a.). Gurisatti continued to host *La Noche* from abroad.

Journalist Hatem Dusaki, Cali television reporter Willy Maldonado Penaranda, television producer Jorge Rangel Rengifo, and Cali journalist Ricardo Varela all left the country during the year due to death threats or extortion attempts.

Francisco "Pancho" Santos, editor of the family-run *El Tiempo*, the country's largest newspaper, and founder of the Pais Libre antiskidnaping organization and the national "No More" antiviolenence civic campaign, remained in exile at year's end.

Santos fled the country in March 2000 after announcing that he was the target of a FARC guerrilla group plot to kill him. In May four journalists of *El Tiempo* were threatened, declared to be military targets, and warned that they must leave the county within 1 month.

In February seven broadcast journalists in Popayan announced that they had received threats from paramilitaries. In May an AUC press release declared five broadcast journalists in Cali to be military targets. On November 9, the AUC threatened three journalists and a cameraman and advised them to abandon their profession in less than 48 hours or face execution.

On September 28, FARC guerrillas manning a roadblock harassed and threatened seven journalists who were going to cover a rally by presidential candidate Horacio Serpa, whom the guerrillas also prevented from entering the demilitarized zone.

The FARC restricted the movement of journalists in the despeje through blockades and random identity checks.

In 2000 the Inter-American Press Society opened a rapid action unit office in Bogota to help the Prosecutor General's office investigate crimes against journalists. The Ministry of Interior operates a program for the protection of journalists, established by an August 2000 presidential decree. During the year, the Government continued to consult with journalism organizations to identify journalists at special risk but has not had sufficient resources to provide protection. The Ministry of the Interior also supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line, which began to function in February.

Media ownership remains highly concentrated. Wealthy families or groups associated with one of the two dominant political parties have consolidated their holdings of news media, and regional firms continued to purchase local news media outlets. As a result of the general economic downturn, large press conglomerates closed radio stations and newspaper offices in certain provinces and reduced staff. In September *El Espectador*, one of the two leading Bogota dailies, became a weekly newspaper due to financial difficulties. The press remained generally free; however, economic problems and the concentration of media ownership limited the media's resources, causing the media to rely heavily on a smaller pool of advertisers, including the Government, which the media often chose not to criticize.

The National Television Commission continued to oversee television programming throughout the year.

Domestic organizations which promote freedom of the press include the Foundation for Freedom of the Press, Media for Peace (which provides training for journalists), and the Free Country Foundation (an antikidnaping NGO). However, on June 15, Free Press announced that it had shut down operations due to threats.

The Government does not restrict academic freedom, and there was a wide spectrum of political activity throughout the country's universities. However, paramilitary groups and guerrillas maintain a presence on many university campuses, aimed at generating political support for their respective campaigns. They use both violent and nonviolent means toward political ends. Both paramilitary groups and guerrillas also regularly targeted public school teachers at the elementary and secondary levels for politically motivated killings.

Investigations continued into four 1999 attacks against prominent academics. Jesus Antonio Bejarano, a former government peace commissioner; Doctor Dario Betancur, head of the social sciences faculty of Bogota's Universidad Pedagogica; and Doctor Hernando Henao, an anthropologist who published on the subject of displaced persons were killed in 1999.

As a result of these incidents, academic leaders have chosen to assume a lower profile; many have taken up residence outside the country.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly, and the Government generally respects this right in practice. The authorities normally do not interfere with public meetings and demonstrations and usually grant the required permission except when they determine that there is imminent danger to public order.

In June two police officers struck journalists who were recording the detainment of a student protester (see Section 2.a.).

There were large demonstrations on several occasions by citizens throughout the country; the authorities generally did not interfere. In February approximately 12,000 persons demonstrated peacefully in San Pablo, Bolivar department, to protest the creation of a guerrilla enclave for the ELN. Later in the same month, about 20,000 persons blocked major highways in Magdalena Medio in an attempt to stop the creation of the zone. They lifted their blockade after the army threatened to intervene. In August agricultural workers blockaded 15 major highways throughout the country, and state security forces reportedly used tear gas to disperse the crowd.

Also in August, 20 persons were injured in demonstrations by striking Bogota cab and bus drivers (see Section 6.a.). The Presidential Human Rights Program and state security forces cooperated with civil society organizations to provide security for major events in July in Antioquia and in September in the Barrancabermeja area. NGO's in Barrancabermeja reported harassment by paramilitaries during a September summit of women's and peace organizations.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. Any legal organization is free to associate with international groups in its field. However, membership in proscribed organizations, such as the FARC, the ELN, the EPL, and the AUC is a crime. In practice, freedom of association is restricted by killings of and threats against labor union leaders and members of NGO's by illegal armed groups (see Sections 4 and 6.a.).

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Although the 1991 Constitution separated the Catholic Church from the State, the Church retains a de facto privileged status.

A 1994 Constitutional Court decision declared unconstitutional any official government reference to religious characterizations of the country. The law on freedom of religion provides a mechanism for religions to obtain status as recognized legal entities. Accession to the 1997 public law agreement between the State and non-Roman Catholic religious entities is required currently for any religion that wishes to minister to its adherents via any public institution. A total of 12 non-Roman Catholic churches have received this special status; however, these churches report that some local authorities have failed to comply with the accord. No non-Christian religion is a signatory to the 1997 public law agreement. Some prominent non-Christian religious groups, such as the Jewish community, have not requested state religious recognition. All legally recognized churches, seminaries, monasteries, and convents are exempt from national and local taxes. Local governments may exempt religiously affiliated organizations such as schools and libraries from taxes; however, in practice, local governments often exempt only organizations that are affiliated with the Roman Catholic Church. According to military regulations, only Roman Catholic priests may serve as chaplains. The Government permits proselytizing among the indigenous population, provided that it is welcome and does not induce members of indigenous communities to adopt changes that endanger their survival on traditional lands.

In August the human rights unit of the Prosecutor General's office reported that it had 37 open cases of religiously motivated crimes.

The AUC sometimes targeted representatives and members of the Roman Catholic Church and evangelical Christian churches, generally for political reasons.

In May 2000, the authorities charged one suspect with the 1999 killings of Roman Catholic priest Jorge Luis Maza and Spanish aid worker Inigo Eguluz in Choco department. The suspect was on trial in Quibdo at year's end. Security forces had arrested nine suspected members of a paramilitary group in connection with this crime but were obliged to release them due to lack of evidence.

The FARC and ELN guerrilla movements regularly target representatives and members of the Roman Catholic Church and evangelical Christian churches, generally for political reasons, and committed acts of murder, kidnaping, and extortion, as well as inhibited the right to free religious expression. The FARC has placed religious restrictions on persons within the despeje zone. The FARC also levied "war taxes" on Roman Catholic and evangelical churches and schools in the despeje and elsewhere.

The Christian Union Movement (MUC) reported the December 29 killing of an evangelical pastor and the December 30 kidnaping of another in Caqueta department. A total of 61 pastors have been killed in the last 8 years. As of June 2000, the FARC had forced the closure of over 300 evangelical churches in Meta, Guajira, Tolima, Vaupes, Guainia, Guaviare, Vichada, Casanare, and Arauca departments, and as of May, 120 more churches had been closed in the southwestern part of the country. Additionally, the MUC claimed that the FARC extorted and, in many cases, forced the closure of rural evangelical schools. Threats by guerrillas or paramilitary forces forced many evangelical preachers to refrain from publicly addressing the country's internal conflict. The MUC also reported an overall increase in the number of kidnapings and extortions but said that these crimes tend to be for economic rather than religious reasons. For example, in February the FARC kidnaped evangelical pastor and radio network president Enrique Gomez in a small town southwest of Bogota and released him in August.

The Bishops' Conference of the Roman Catholic Church reported in 2000 that paramilitary forces, the ELN, and the FARC sometimes threatened rural priests with death for speaking out against them. It also reported that the indiscriminate

use of force during guerrilla attacks on towns and police stations destroyed Roman Catholic churches in Huila, Tolima, Cauca, and Antioquia departments (see Section 1.g.).

Jewish community leaders estimated that as many as one-third of the country's Jewish community had fled the country as of July 1999. Among the principal causes was a string of kidnappings, assaults, and murders affecting Jewish business leaders.

In January representatives of various evangelical Christian churches reported that the FARC harassed congregation members for refusing to participate in coca cultivation in Meta and Cauca departments.

On March 11, unknown persons killed Protestant pastor Onofre Hernandez Benitez as he came out of the Pan-American Church of Arauca. It remains unclear to what extent, if any, the killing was related to religion.

In March 2000, unidentified perpetrators killed Roman Catholic priest Hugo Duque Hernandez at Supia, Caldas department. The case remained under investigation at year's end.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides citizens with the right to travel domestically and abroad, and the Government generally respects this right in practice, with some exceptions. Outsiders who wish to enter Indian tribes' reserves must be invited. In areas where counterinsurgency operations were underway, police or military officials occasionally required civilians to obtain safe-conduct passes; paramilitary forces and guerrillas often used similar means to restrict travel in areas under their control. At times the Government implemented curfews.

Throughout the year, frequent road blockades erected by paramilitary groups, the FARC, ELN, and peasant farmers inhibited transportation, communication, and commerce throughout the country (see Sections 1.g. and 2.a.). Social organizations also resorted to road blockages, some of them prolonged, to protest government actions or policies (see Section 2.b.). Almost every major artery in the country was closed at some point during the year. There were numerous reports of members of indigenous communities, particularly in Putumayo, being forbidden to leave their community without either paramilitary or FARC permission, and in which paramilitaries have blockaded communities.

According to the U.N. High Commission for Refugees (UNHCR), in the first three-quarters of the year, 9,412 Colombians requested asylum. UNHCR also reported that Colombians represent the 12th most numerous nationality requesting asylum, up from 21st during the first half of 2000.

A May 2000 law prohibits forced displacement; however, military counterinsurgency operations, forced conscription by paramilitary and guerrilla organizations, and guerrilla incursions often forced peasants to flee their homes and farms, resulting in a very large population of IDP's.

Both paramilitary groups and guerrillas used forced displacements to gain control over disputed territories and to weaken their opponents' base of support. An estimated 42 towns were abandoned after paramilitary or guerrilla attacks. The authorities sometimes encouraged civilian populations to move back to their homes before security situations had normalized, or civilians returned before it was advisable.

According to CODHES, 347,000 displacements of civilians from their homes occurred during the year, compared with 317,340 during 2000. Government sources estimated that 275,000 persons were displaced, compared with 125,000 in 2000. Exact numbers of IDP's are difficult to obtain because some persons were displaced more than once, and many IDP's do not register with the Government or other entities. As many as 1.3 million citizens may have been displaced since 1996. An alliance of human rights, religious, and aid organizations stated in 2000 that an estimated 2 million persons had been displaced by political violence since 1985. CODHES states that some persons have been displaced for as long as 10 years, but it is unable to identify a typical timeframe for displacement. Some persons return to their homes within days or weeks, others within months, and some never return. Some displaced persons move several times after fleeing their original home, making tracking difficult. CODHES estimated that perhaps 65 percent of displacements became permanent, while the ICRC estimates that 50 percent of the displaced return home, although they may be displaced again. The Social Solidarity Network is working with the ICRC, CODHES, the UNHCR, and the Bishop's Conference of the Catholic Church on a system for providing better estimates of the number of IDP's, which they hope may yield more reliable figures by the middle of 2002. An estimated 525,000 persons are believed to be in need of assistance, including newly and longer term displaced. The U.N. Thematic Group, an intersectoral group composed of U.N. agencies, government agencies, and NGO's, reported that state agents are responsible for less than 1 percent of displacements, the paramilitaries are re-

sponsible for 46 to 63 percent, and guerrilla groups are responsible for 12 to 13 percent.

The vast majority of displaced persons are peasants who have been displaced to cities, which have had difficulty integrating large numbers of persons into their infrastructure. Many displaced persons settle on the outskirts of Bogota, Medellin, and Cartagena, where conditions are overcrowded and unsanitary, and smaller municipalities have been overwhelmed by the need for services. According to CODHES, between 1985 and the first quarter of the year, 66 percent of displaced persons came from rural areas, 22 percent of IDP's are female heads of household, 57 percent of the total number are female, and 70 percent of IDP's are under the age of 19. There are reports that some families flee to avoid forcible recruitment of their children by guerrillas (see Sections 1.f. and 5). Thousands of IDP's were unable to return to their homes due to the presence of antipersonnel mines (see Section 1.g.). Several observers noted that displaced women and girls are especially vulnerable to domestic violence, sexual abuse, and sexual exploitation (see Section 5). Many displaced persons lost access to health care, employment, and education (see Section 5). CODHES estimates that only 34 percent of displaced households have access to health services. The Human Rights Ombudsman's office reported in 2000 that only 15 percent of displaced children have access to schools. Malnutrition among displaced children is a problem, and displaced children are increasingly vulnerable to sexual exploitation and recruitment by criminal gangs. According to the UNHCR, approximately one-third of IDP's are indigenous or Afro-Colombian. (Afro-Colombian and indigenous groups make up approximately 16 percent and 2 percent of the population, respectively.) Numerous threats were made during the year against individuals and groups working with the displaced.

The Government does not make adequate provisions for humanitarian assistance to the displaced, although the law and court decisions require it to do so. Although conditions for IDP communities varied in different regions, conditions for displaced persons in many locations were poor and unhygienic, with little access to health care, and few educational or employment opportunities. The Government provides assistance through the Solidarity Network, the ICBF, the Health Ministry, and other state entities. Government officials continued to estimate that 70 to 80 percent of humanitarian assistance received by displaced persons is provided by the ICRC and NGO's. Most displaced citizens received emergency humanitarian assistance from the ICRC, Social Solidarity network, or NGO's for only 90 days, although some IDP's have received it for longer, and others never receive any aid at all. The ICRC provided emergency assistance to 125,000 displaced persons during the year, compared with 135,000 in 2000.

On August 31, Kofi Asomani, the U.N. Special Coordinator on Internal Displacement, stated that the country is facing an acute problem of displacement. He noted that in the first 8 months of the year there was a progressive increase in the numbers, geographical extension, and political complexities of the displacement phenomenon. He urged the Government and the international community to devote greater attention to addressing the longer-term needs of the displaced.

The UNHCR office in Bogota works to strengthen the Government's capacity to address the IDP problem and to work on regional refugee issues. The UNHCR office also has field offices in Barrancabermeja; Apartado, Uraba department; and in Puerto Asis, Putumayo department. The UNHCR plans to open an office in Sincelejo, Sucre department, in 2002.

Hundreds of displaced persons also fled to Panama, Ecuador, and Venezuela. There have been few or no reports of the forced return of refugees from Panama or Ecuador, although most refugees received little assistance. Colombians leaving the country to Ecuador used that country as a temporary escape from violence in Putumayo and returned to Colombia through another border crossing, such as Ipiales, Narino department. There continued to be reports of the forced return of refugees from Venezuela. In February church officials in Venezuela stated that they provided food and shelter to about 3,000 refugees who fled the country to escape paramilitary attacks. There were two reported group refugee incidents in Venezuela during the year. On January 25, an estimated 400 to 500 persons received food aid and medical assistance from local NGO's and the Venezuelan military and returned to La Cooperativa in Northeast Colombia. The UNHCR and NGO's were denied access, and it is unclear whether the group return was voluntary. On October 7, a group of 164 persons, including 90 children, fled from Vichada into Venezuela's Amazonas province. They were given aid, and the UNHCR reported that their return was voluntary.

An organized group of IDP's continues to occupy the former headquarters of the ICRC in Bogota, despite a December 2000 Constitutional Court ruling that the Government was to assist and resettle the group. However, a number of persons both

inside and outside of the Government have argued that it is not possible for the Government to comply with the ruling due to lack of resources, and because the law on displacement does not define a limit to reintegration assistance.

The Constitution provides for the right to asylum, under terms established by law in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The country has had a tradition of providing asylum since the 1920's. During the year, 3 refugees had been granted legal asylum status, and 17 applications for asylum were pending at year's end.

The Government cooperates with the offices of the UNHCR and other humanitarian organizations in assisting refugees and IDPs. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of the applicant's case. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for the right of citizens to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In 1998 voters elected Conservative Party candidate Andres Pastrana President in elections that were free, fair, and transparent, despite some threats to the electoral process by paramilitary groups, narcotics traffickers, and guerrillas. The Liberal Party controls the legislature. In the Senate, the Liberal Party holds 19 of 72 seats, the Conservative Party holds 15, and small independent movements hold the remaining 38 seats. In the House of Representatives, Liberals holds 86 seats, Conservatives have 32, and independent movements hold the remaining 43 seats.

Presidential elections are held every 4 years, with the incumbent barred for life from reelection. The next election is scheduled for May 26, 2002. The Liberal and Conservative parties long have dominated the formal political process with one or the other winning the presidency. Public employees are not permitted to participate in partisan campaigns. Elections to renew the entire Senate and House of Representatives are scheduled for March 10, 2002. Congresspersons are elected to 4-year terms. Governors, mayors, assemblymen, and other local officials are elected to 3-year terms. The next elections for local officials are scheduled for October 2003.

Officially, all political parties operate freely without government interference. Those that fail to garner 50,000 votes in a general election lose the right to present candidates and may not receive funds from the Government. However, they may reincorporate at any time by presenting 50,000 signatures to the National Electoral Board. Voting is voluntary and universal for citizens age 18 and older, except for active-duty members of the police and armed forces, who may not vote.

Both paramilitary and guerrilla organizations sought to dissuade some potential candidates from running for office, restrict their ability to campaign, and threatened, kidnaped, and killed incumbent elected officials at various levels (see Sections 1.a, 1.b., and 1.c.).

In September FARC guerrillas prevented presidential candidate Horacio Serpa from leading a large campaign delegation into the demilitarized zone. Guerrillas are suspected in at least three plots to kill right wing, independent presidential candidate Alvaro Uribe. In December members of Congress held a candlelight vigil to remember their peers who had been kidnaped and killed. The FARC kidnaped Liberal Congressman Orlando Bernal Cuellar in August and Liberal Congressman Luis Eladio Perez in June. On September 10, Huila department Congressman Consuelo Gonzalez was kidnaped, presumably by the FARC. The FARC also are holding hostage Conservative Party congressman Oscar Lizcano, kidnaped in June 2000.

In September AUC leader Carlos Castano launched the National and Democratic Movement, a quasi-political party affiliated with the AUC that plans to run or support candidates in the March 2002 congressional elections. The group is expected to remain largely clandestine, as Castano continues to seek political recognition. There also are credible reports that the AUC plans to run congressional candidates in March 2002 under the Liberal and Conservative Party banners. There are credible reports that the paramilitaries are trying to coerce congressional candidates they do not support from running for office, especially in the Middle Magdalena region. Numerous members of Congress have expressed concern about threats and violence against candidates and voters; in May Liberal Party presidential candidate Horacio Serpa said that there were candidates at all levels who could be elected by guns.

In April 2000, the FARC announced the formation of a political party—the Bolivarian Movement for a New Colombia—before a gathering of thousands of per-

sons. FARC leader Manuel Marulanda announced that the party would operate secretly.

In the 192 municipalities which lack state security presence, and in urban neighborhoods, both guerrilla and paramilitary groups sought to impose control and garner political support with measures ranging from social cleansing killings to punishments for domestic violence (see Sections 1.a., 1.d., and 5) and by donating materials or labor to community projects. In May Governor Jorge Gomez Villamizar of Santander department strongly criticized numerous threats against mayors and councilmen in 26 Santander municipalities that lack permanent state security forces.

The Colombian Federation of Municipalities reported to the press in 2000 that armed groups threatened candidates in the October 2000 municipal elections in more than half of the country's 1,097 municipalities. By year's end, the Federation reported that 6 mayors had been killed, that displacements of mayors from their municipalities had increased, and that 10 mayors were kidnaped (see Section 1.b.). For example, on November 19, the AUC abducted six mayors from eastern Antioquia, as well as their human rights adviser, apparently in retaliation for meetings that the mayors had held with representatives of the ELN to seek respect for the lives of the civilian population in their municipalities. In response to these attacks and threats, some rural mayors fled to major cities, where they continued to conduct municipal business via telephone and facsimile. The Federation reported in 2000 that 19 mayoral candidates were killed, 20 were kidnaped, 12 reported threats, and as many as 53 candidates for mayoral and municipal council posts withdrew their candidacies. However, the October 2000 municipal elections were generally peaceful.

There are no legal restrictions, and few practical ones, on the participation of women or minorities in the political process; however, the percentage of women or minorities in government and politics does not correspond to their percentage of the population. In March 2000, a quota law to increase the number of women in high-level public positions went into effect. The quota law requires that a minimum goal of 30 percent of nominated positions, including seats on the high courts and ministerial positions, be allotted to women. The quota law does not apply to publicly elected positions, such as seats in Congress. In March the Constitutional Court decided that the statutory quota cannot be applied to candidates for local election or public enterprises. Before the end of each year, the Government must report to Congress the percentage of women in high-level governmental positions. The Government's year end report indicated that there are 13 female senators (out of 102 seats) and 19 female representatives (out of 161) in the Congress. There were 4 women in the 16-member cabinet (the Ministers of Health, Culture, Communications, and Foreign Trade) and 7 vice ministers. There is 1 female among the 23 Supreme Court justices, 1 woman among 9 Constitutional Court magistrates, and 2 among the 13 magistrates of the Superior Judicial Council. The report also stated that there is 1 female governor and 75 female mayors.

The percentage of indigenous people in government and politics does not correspond to their percentage of the population. Two Senate seats are reserved for indigenous representatives. In October 2000, voters in Cauca elected Floro Tunubala, the country's first indigenous governor. Paramilitaries repeatedly have threatened him since he took office in January. The percentage of Afro-Colombians also does not correspond to their percentage of the population. In 1996 the Constitutional Court declared unconstitutional a 1993 law that set aside two house seats for citizens of African heritage, although the ruling allowed the incumbents to complete their terms in office. There is one Afro-Colombian senator, but there are no Afro-Colombian members of the House of Representatives. Afro-Colombian organizations say that Afro-Colombians have almost no representation in the executive branch, judicial branch, and civil service positions, and in military hierarchies.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A large and varied nongovernmental human rights community is active and provides a wide range of views; however, many prominent human rights monitors worked under constant fear for their physical safety. Among the many groups are: The Colombian Catholic Bishops Conference; the CCJ; the Intercongregational Commission for Justice and Peace; CINEP; the Advisory Committee for Human Rights and Displacement; the Committee in Solidarity with Political Prisoners (dedicated to defending accused guerrillas); the Association of Families of Detained and Disappeared Persons; the Reinsertion Foundation (focused on demobilized guerrillas); the Free Country Foundation (focused on the rights of kidnap victims); several associations which promote the rights of victims of guerrilla violence; groups which pro-

vide legal assistance to victims of human rights violations; and groups which provide humanitarian assistance to the displaced. Other international humanitarian and human rights organizations include the office of the U.N. High Commissioner for Human Rights in Colombia, several other U.N. agencies, the ICRC (with 16 offices across the country), and Peace Brigades International. NGO's investigated and reported on human rights abuses committed by government forces, various paramilitary groups, and the guerrillas.

Although the Government generally did not interfere with the work of human rights NGO's, there were unconfirmed reports that security forces harassed or threatened human rights groups. Citing changes in the revised Criminal Code, in August the Prosecutor General's office revoked charges filed against retired Brigadier Generals Millan and Del Rio for bribing witnesses to testify falsely against a leading NGO organizer and a labor leader, although the two men remain under investigation (see Section 1.a.).

Paramilitary, guerrilla, and other unidentified groups subjected human rights groups to intense pressure during the year, in the form of surveillance, harassing telephone calls, graffiti campaigns, and death threats. Paramilitary and guerrilla groups also have been implicated in the deaths of human rights and development workers. According to the CCJ, nine human rights advocates were killed during the year; four human rights workers disappeared. A total of 48 human rights workers have been killed or have disappeared in the past 5 years.

For example, paramilitaries are thought to be responsible for the June torture and murder of Alma Rosa Jaramillo Lafourie, a lawyer and development worker for the Program for Peace and Development in Magdalena Medio, in Morales, Bolivar department. In July another employee of the program, Eduardo Estrada, was murdered in San Pablo, Bolivar department.

On September 9, armed men shot and killed Sister Yolanda Ceron, a human rights worker for the Catholic Church, in Tumaco, Narino department.

Leading domestic NGO's and international organizations strongly and unanimously condemned the December 27 and 28 killings by FARC guerrillas of peace community activists Petrona Sanchez and Edwin Ortega in Choco department. Sanchez and Ortega were coordinating an education project in the self-declared neutral peace community of San Francisco de Asis (Uraba region, Choco department), which is accompanied by the Catholic Church and by CINEP.

There is no information on the whereabouts of Angel Quintero and Claudia Patricia Monsalve, members of ASFADDES (an association for relatives of the disappeared) who were kidnaped in October 2000. No arrests had been made in the kidnaping at year's end, but investigators in this case subsequently uncovered evidence of extensive illegal wiretapping by the Medellin GAULA (see Section 1.f.). The authorities continued to investigate the kidnaping. In June Astrid Manrique Varvajal of ASFADDES and her family were threatened.

On numerous occasions during the year, paramilitary groups in several municipalities circulated lists of the names of persons they considered "military targets," which included the names of local human rights activists, labor organizers, and politicians (see Sections 3 and 6.a.).

On January 3, AUC paramilitaries threatened Jose Guillermo Larios and Ivan Madero Vergel, members of CREDHOS. On numerous occasions during the year, AUC members threatened members of the Popular Women's Organization in Barrancabermeja.

In addition, approximately 60 human rights workers left the country, either temporarily or permanently, for their own safety. Many more activists leave without coming to the Ministry of Interior or leading NGO's for assistance. CINEP reported at year's end that requests for protection received by the Ministry of Interior and the Ad Hoc Committee of Human Rights Defenders rose 130 percent.

The Government, through the Ministry of the Interior and the DAS, allocated approximately \$11.3 million (25 billion pesos) to its 3-year-old program to protect human rights advocates and labor activists associated with 88 different human rights NGO's and unions. The funds were designated for security measures for individuals as well as for the headquarters of the NGO's, an emergency radio network, and funding for travel abroad for individuals who faced a particular threat; however, human rights groups continued to state that the protection programs are inadequate to address the crisis, and called for increased efforts to combat impunity. During the year, the Ministry of Interior fought successfully to quadruple its budget and extended protection measures to 2,344 union leaders, NGO members, witnesses, community leaders, members of the Patriotic Union, and journalists; 880 persons were provided with protection in 2000. This protection included bulletproofing for 65 residences and offices.

On February 16, Hina Jilani, the Special Representative of the Secretary General of the U.N. on Human Rights Defenders, expressed deep concern over the violation of the rights of human rights workers. She stated that she had received information that human rights defenders had been subject to numerous forced disappearances, internal and external displacement, and death threats. She revisited the country in October. At a press conference at the conclusion of her visit, she again expressed concern over the attacks upon human rights defenders. In November the U.N. Special Rapporteur on violence against women, Radhika Coomaraswamy, investigated violence against women in the country's armed conflict (see Sections 1.g. and 5).

Armed groups also targeted regional human rights ombudsmen. A paramilitary was charged in the January murder of regional human rights ombudsman Ivan Villamizar in Cucuta, Norte de Santander department. He remained in detention at year's end. In July 2000, the FARC reportedly kidnaped and killed Jose Manuel Bello, the municipal human rights ombudsman in Vigia del Fuerte, Atrato, Antioquia department. In July 2000, unidentified armed men killed Yemil Fernando Hurtado Castano, the human rights ombudsman in Narino municipality, south-eastern Antioquia department. The murders of Bello and Hurtado remained under investigation at year's end. There was no reported progress in the investigation of the 1999 killing of the Human Rights Ombudsman's representative for San Juan Nepomuceno, Carlos Arturo Pareja, and his assistant.

NGO's linked suspected paramilitary leader Libardo Humberto Prada Bayona to the August 2000 murder of peace activist and former mayor Luis Fernando Rincon Lopez in Aguachica, Cesar department; however, prosecutors have not linked Prada to the Rincon murder, which remains unsolved. The case remained under investigation at year's end. Prada was absolved by a Valledupar court for the 1998 killing of local Redepaz coordinator Amparo Leonor Jimenez Pallares; prosecutors were appealing the decision at year's end.

Prosecutors continued to investigate the 1999 AUC killings of southern Bolivar department peasant leaders Edgar Quiroga and Gildardo Fuentes.

Arrest warrants remained outstanding for Carlos Castano and four other members of paramilitary groups for the 1997 murders of two CINEP workers and one other person (see Section 1.a.).

In 1997 the UNHCHR opened a field office in Bogota to observe human rights practices and advise the Government; in April its mandate was extended through April 2002. The office is tasked with monitoring and analyzing the human rights situation throughout the country and with the provision of assistance to the Government, civil society, and NGO's in the field of human rights protection. It submitted reports to the Government and to the U.N. during the year. In March the UNHCHR report, which covered 2000, criticized a lack of state effort to prevent and prosecute crimes by paramilitary groups, and broadly criticized the continuing systemic problems of impunity, lack of due process, and growing violence against women and children (see Sections 1.e. and 5). UNHCHR's report also criticized guerrilla abuses such as killings, kidnaping, child recruitment, forced displacement, and interference with medical missions (see Sections 1.a., 1.b., 1.g., 2.d., and 5). The Government publicly criticized the UNHCHR's report for failing to acknowledge government efforts.

The Government has an extensive human rights apparatus, which includes the office of the President's Adviser for Human Rights, headed by Vice President Gustavo Bell. In September 2000, human rights expert Reinaldo Botero was named director of the presidential program for human rights and international humanitarian law. The executive branch's efforts on human rights are supported by the Ministry of Interior, the human rights office of the MOD, and dependent offices for each of the public security forces. The office of the National Human Rights Ombudsman, its regional representatives and corps of public defenders, the Inspector General's office and its delegate for human rights and regional representatives, and the Prosecutor General's office and its human rights unit are all independent institutions, not subject to executive branch direction.

The House of Representatives elects the Public Ministry's National Ombudsman for Human Rights for a 4-year term, which does not coincide with that of the President. The office has the constitutional duty to ensure the promotion and exercise of human rights. The Ombudsman provides public defense attorneys and a channel for complaints of human rights violations (see Section 1.e.). However, the Ombudsman lacks sufficient funding and staff. In August 2000, the House of Representatives confirmed former Constitutional Court Judge Eduardo Cifuentes Munoz as Human Rights Ombudsman. Cifuentes has been active in his role, publicly criticizing a wide variety of human rights violations, visiting massacre sites, and pressing for increased security and humanitarian assistance for affected communities. His office, with international assistance, is providing training for its regional om-

budsmen and conducting public education on human rights. The Ombudsman's office also is developing an early warning system, which would allow the Ombudsman's office to track threat information and subsequent government action to investigate threats and protect the civilian population.

The Human Rights Ombudsman's office processed 14,149 complaints in 2000 (the latest year for which figures were available). Of these, 300 complaints concerned extrajudicial killings, 125 concerned massacres, and 699 concerned threats. The office also provided 32,295 free legal consultations through its corps of more than 1,000 public defenders, many of whom work only part-time.

In 1999 the Vice President enunciated the Government's human rights policy; however, despite improvements, some aspects of implementation have been slow to materialize, and there has been an overall increase in human rights violations by illegal armed groups since 1999. The Government's national human rights plan called for the respect, promotion, and assurance of human rights. It promised increased government attention to the consequences of human rights abuses and called on all armed factions to respect international humanitarian law. The plan asserted that security forces would combat both guerrilla and paramilitary forces. One of the plan's most important provisions permitted the armed forces commander to remove from service summarily any military member whose performance in combating paramilitary forces he deemed "unsatisfactory or insufficient." In September 2000, the President signed 12 decrees to reform and strengthen the military (see Section 1.e.).

The Presidential Program for Human Rights established six regional intersectoral commissions, which include NGO's, government officials, and state security forces, to address human rights, development, and security concerns in vulnerable areas. During the year, presidential staff and leading NGO's met to discuss how best to structure cooperation on the national human rights plan. The Presidential Program for Human Rights, the Ministry of the Interior, and state security forces also coordinated to provide security for several large civil society events such as the Plenary of the National Assembly for Peace in Rionegro, the Caravan of Peace in Medio Magdalena, and a major women's march to Barrancabermeja.

The MOD reported in September that in the past 5 years, 119,349 security force members received human rights training, including 2,269 human rights trainers. The ICRC, the Colombian Red Cross, the Roman Catholic Church, elements of the Government and security forces, and foreign governments provide such training. Many observers credited these programs with having done much to foster a climate of increased respect for human rights and international humanitarian law within the military forces in recent years. In September the MOD signed an agreement with two national universities and the Inter-American Institute for Human Rights to conduct research and training on human rights and organized several seminars intended to foster dialog with NGO's and academics on human rights.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution specifically prohibits discrimination based on race, sex, religion, disability, language, or social status; however, in practice, many of these provisions are not enforced. The killing of homosexuals as part of the practice of social cleansing continued, especially by the AUC (see Section 1.a.).

Women.—Rape and other acts of violence against women are pervasive in society, and like other crimes, seldom are prosecuted successfully. According to the Ombudsman's 2000 report, intrafamilial violence, sexual assault, and the murder of women were increasing problems. The governmental Institute for Family Welfare and the Presidential Adviser's Office for Youth, Women, and Family Affairs continued to report high levels of spousal and partner abuse throughout the country. Between January and August, the Institute for Forensic Medicine reported 19,066 cases of spousal abuse. There were 8,757 cases of domestic violence by other family members. The Institute reported 2,834 cases of sex crimes (excluding figures for Bogota) including rape, the rape of minors, and other forms of sexual abuse. The Institute commented that the crimes of domestic violence and rape are grossly underreported, citing its 1995 survey that indicated that as few as 5 percent of these crimes are reported, and that only 2 percent of victims receive a medical evaluation. The ICBF conducted programs and provided refuge and counseling for victims of spousal abuse; however, the level and amount of these services were dwarfed by the magnitude of the problem. For example, each of the ICBF's 530 family ombudsmen handle approximately 1,160 cases per year.

The 1996 Law on Family Violence criminalizes violent acts committed within families, including spousal rape. The law also provides legal recourse for victims of family violence, immediate protection from physical or psychological abuse, and judicial

authority to remove the abuser from the household. It allows a judge to oblige an abuser to seek therapy or reeducation. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders issued by the courts.

A 1997 law also made additional, substantial modifications to the Penal Code and introduced sentences of between 4 and 40 years for crimes against sexual freedom or human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The June 2000 reforms to the Penal Code approved reduced the maximum sentence for violent sexual assault from 20 to 15 years; the minimum sentence is 8 years. The Institute of Forensic Medicine reported 13,703 cases of probable rape during 2000. First Lady Nohra Puyana de Pastrana is on the board of directors of the ICBF and works with the "Make Peace" program, which provides support to women and children who were victims of domestic violence. Under the auspices of the same program, the Human Rights Ombudsman's office conducted regional training workshops in various cities to promote application of domestic violence statutes.

Women also faced an increased threat of torture and sexual assault due to the internal conflict (see Section 1.g.). In November the U.N. Special Rapporteur on violence against women, Radhika Coomaraswamy, investigated violence against women in the country's armed conflict. The UNHCHR, CODHES, and the Human Rights Ombudsman all noted that internally displaced women and girls are especially vulnerable to domestic violence, sexual abuse, and sexual exploitation (see Section 2.d.). In August the Colombian Pro-Family Institute published a Study of Sexual Health and Reproduction in Displaced Women and Adolescents. One of the greatest problems facing displaced women is adolescent pregnancy; 3 out of 10 girls between the ages of 13 and 19 have a child or are pregnant. According to the study, one out of five displaced women have been raped, a significant percentage by their husbands or companions. International organizations and NGO's have noted with deep concern that sexual violence is largely unreported and that no long-term assistance is available to female IDP's. In addition, they criticized the use of female combatants in guerrilla organizations as sex slaves. Former female guerrillas also have reported forced abortions and forced implantation of intrauterine devices (see Section 1.g.).

Prostitution, which is not legal, is a problem, which has been aggravated by a poor economy and internal displacement. Sex tourism exists to a limited extent, especially in coastal cities like Cartagena and Barranquilla. It is likely that some number of marriage and dating services are covers for sex tourism activities.

Trafficking in women for sexual exploitation is a problem (see Section 6.f.).

The law prohibits sexual harassment; however, it is a problem.

The Constitution prohibits any form of discrimination against women and specifically requires the authorities to ensure "adequate and effective participation by women at decision making levels of public administration." Even prior to implementation of the 1991 Constitution, the law had provided women with extensive civil rights. However, despite these constitutional provisions, discrimination against women persists. A 2000 study by the University of Rosario concluded that women faced hiring discrimination, and that women's salaries were generally incompatible with their education and experience. The salary gap between men and women widened from 1990 through 2000, reaching a high point in 1999 as the country's economy declined. The study also noted that women were affected disproportionately by unemployment. Government unemployment statistics for 2000 indicated that the unemployment rate for men was 16.9 percent, while the rate for women was 24.5 percent. According to the March 2000 report of the UNHCHR, women earn 28 percent less than men do. The National Statistics Institute reported that a higher percentage of women were employed in minimum wage jobs. According to U.N. statistics, women's earnings for formal sector, nonagricultural work correspond to approximately 85 percent of men's earnings for comparable work, and women must demonstrate higher qualifications than men when applying for jobs. Moreover, women constitute a disproportionately high percentage of the subsistence labor work force, especially in rural areas. Female rural workers are affected most by wage discrimination and unemployment.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to provide them with training in parenting skills, women's groups reported that the social and economic problems of single mothers remained great. According to a 1997 Constitutional Court decision, pregnant women and mothers of newborn children less than 3 months of age may not be fired from their jobs without "just cause." The court ruled that bearing children was not just cause.

Children.—Constitutional and legislative commitments to the protection of children's rights were implemented only to a minimal degree. The Constitution imposes

an obligation on the family, society, and the State to assist and protect children, to foster their development, and to ensure the full exercise of these rights. The Children's Code describes many of these rights and establishes services and programs designed to enforce the protection of minors. Children's advocates reported the need to educate citizens regarding the code as well as the 1996 and 1997 laws on family violence, which increase legal protection for women and children. The ICBF oversees all government child protection and welfare programs and funds nongovernmental and church programs for children.

The Constitution formally provides for free public education, which is compulsory between the ages of 6 and 15. An estimated 25 percent of children in this age group do not attend school, due to lax enforcement of truancy laws, inadequate classroom space, and economic pressures to provide income for the family. The Government provides for the cost of primary education, but many families face additional expenses such as matriculation fees, books, school items, and transportation costs (which are significant in rural areas where children may live far from school). These costs can be prohibitive, especially for the rural poor.

The law obliges the Government to provide medical care for children; however, medical facilities are not universally available, especially in rural areas.

Child abuse is a problem. The National Institute for Forensic Medicine reported 5,471 cases of child abuse between January and August; there were 9,896 reported cases in 2000. According to the March 2000 report of the UNHCHR, sexual abuse is prevalent, particularly of children between the ages of 5 and 14 years of age. In 70 to 80 percent of cases, children know their abusers.

According to UNICEF, an estimated 35,000 boys and girls under age 18 work as prostitutes. A 1996 law prohibits sex with minors or the employment of minors for prostitution. In August 2000, the Prosecutor General's Specialized Sex Crimes and Human Dignity Unit reported that from August 1999 to August 2000 it opened 41 cases in which a child under 14 was induced or lured into prostitution.

Children are trafficked for sexual exploitation (see Section 6.f.).

Child labor is a significant problem (see Section 6.d.).

In conflict zones, children often were caught in the crossfire between public security forces, paramilitary groups, and guerrilla organizations. For example, on March 9, seven children were injured near Popayan, Cauca department, by a grenade left behind by the ELN. MOD figures indicated that approximately 200 children were killed due to the conflict during 2000. Children suffered disproportionately from the internal conflict, often forfeiting opportunities to study as they were displaced by conflict and suffered psychological traumas. According to UNICEF, over 1 million children have been displaced from their homes over the past decade (see Section 2.d.). The Human Rights Ombudsman's office estimated that only 15 percent of displaced children attend school. Both female and male children who have been displaced are especially vulnerable to abuse, sexual exploitation, or recruitment by criminals.

Paramilitaries and guerrillas forcibly recruited children, and the use of child soldiers was common (see Section 1.f.) Sexual abuse of girls is a particular problem (see Sections 1.f. and 1.g.).

In 2000 UNICEF reported that various armed groups had killed 460 children over the previous 4 years and kidnaped another 789 children (see Section 1.b.). Children were among the preferred kidnaping targets of guerrillas (see Section 1.b.). Pais Libre reported that the number of children kidnaped annually increased from 206 in 1999, to 265 in 2000, and to 205 as of October. According to the MOD, 213 minors were kidnaped between January and August. Among the 213 were 29 babies less than 2 years of age, and 57 of these children still were in captivity as of August. For example, the FARC kidnaped 3-year-old Andres Felipe Navas in April 2000 and did not release him until November 2001. In April 2000, the FARC also kidnaped 9-year-old Dagoberto Ospina Ospina from his school bus in southern Cali and did not release him until early in the year (see Section 1.f.).

Persons with Disabilities.—The Constitution enumerates the fundamental social, economic, and cultural rights of the persons with physical disabilities; however, serious practical impediments exist that prevent the full participation of persons with disabilities in society. There is no legislation that specifically mandates access for persons with disabilities. (Most public buildings and public transport are not accessible to persons with disabilities.) According to the Constitutional Court, persons with physical disabilities must have access to, or if they so request, receive assistance at, voting stations. The Court also has ruled that the social security fund for public employees cannot refuse to provide services for the children of its members who have disabilities, regardless of the cost involved.

Indigenous People.—There are 82 distinct ethnic groups among the country's 716,400 indigenous inhabitants, who constitute about 2 percent of the country's pop-

ulation. These groups are concentrated in the Andes mountains, Pacific Coast lowlands, the Guajira Peninsula, and Amazonas department. According to the National Organization of Colombia's Indigenous (ONIC), 93 percent of indigenous people live in rural areas; and approximately 115,000 indigenous people are without land.

The Constitution gives special recognition to the fundamental rights of indigenous people. The Ministry of Interior, through the office of indigenous affairs, is responsible for protecting the territorial, cultural, and self-determination rights of indigenous people. Ministry representatives are located in all regions of the country with indigenous populations and work with other governmental human rights organizations, as well as with NGO human rights groups and civil rights organizations, to promote indigenous interests and investigate violations of indigenous rights. Nonetheless, members of indigenous groups suffer discrimination because they traditionally have been relegated to the margins of society. Few opportunities exist for those who might wish to participate more fully in modern life. The March 2000 report of the UNHCHR noted that an estimated 80 percent of the indigenous population live in conditions of extreme poverty, that 74 percent receive wages below the legal minimum, and that their municipalities have the highest rates of poverty. In addition, indigenous communities suffer disproportionately from the internal armed conflict (see Section 1.g.). Members of indigenous communities often flee together in mass displacements, relocating to other indigenous communities (see Section 2.d.).

According to the National Agrarian Reform Institute (INCORA), 70,049 indigenous families (377,085 persons, or 60 percent of the country's total indigenous population) live on designated reserves. Indigenous groups' rights to their ancestral lands are by law permanent. INCORA reports that approximately 80 percent of these lands have been demarcated. However, armed groups often violently contested indigenous land ownership. According to ONIC, roughly 95 percent of the country's natural resources are found on indigenous reservations and claimed territories. Traditional Indian authority boards operate some 545 reserves; the boards handle national or local funds and are subject to fiscal oversight by the national Comptroller General. These boards administer their territories as municipal entities, with officials elected or otherwise chosen according to tradition.

INCORA estimated that some 200 indigenous communities had no legal title to land that they claimed as their own. According to INCORA, more than 12,603,496 acres (approximately 28 percent of the national territory) have been recognized legally as indigenous lands. It is buying back much of this land, which was settled by mestizo peasants, and returning it to indigenous groups.

The Constitution provides for a special criminal and civil jurisdiction within indigenous territories based upon traditional community laws. However, some observers asserted that these special jurisdictions were subject to manipulation, and that punishments rendered by such community courts were often much more lenient than those imposed by regular civilian courts.

Indigenous communities are free to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

Members of indigenous communities continued to be victims of all sides in the internal conflict, and a number of them were killed. The UNHCHR's office reported that 10 indigenous leaders were killed between January and August. The UNHCHR strongly criticized both paramilitary and FARC threats against indigenous communities and characterized government investigations of human rights violations against indigenous groups as insufficient. ONIC reported in July that 35 members of indigenous groups were killed between January and July. ONIC reported widespread cases in which members of indigenous communities, particularly in Putumayo, are forbidden to leave their community without either paramilitary or FARC permission, in which paramilitaries have blockaded communities, or in which indigenous people returning from urban areas are accused by guerrillas of being paramilitary collaborators.

For example, in May leaders of the Arhuacos people told the press that they fear that the civil war could destroy their tribe as they become caught in the crossfire between the FARC and the AUC. On November 24, AUC gunmen attacked an indigenous reservation near Rio Sucio Cauca department; they killed five persons and threatened others. In December attacks by the AUC killed seven persons, while a subsequent attack by the FARC killed a 14-year-old girl in the village of San Lorenzo. The attacks wounded 3 other persons and destroyed 35 homes.

In June in Cordoba department, presumed paramilitaries kidnaped and reportedly killed Embera leader Kimy Pernia Domico, well-known for his opposition to the Urra reservoir project (see Section 1.b.).

Paez leader Cristobal Secue Tombe was killed in June. The Regional Indigenous Council of Cauca (CRIC) attributed Secue's murder to the FARC and said the killing

may have been retribution for Secue's investigations of crimes by the FARC. Also in June, unknown persons shot and killed Alberto Sabugara Velasquez, spokesman for the Tascicogucho community of Alto Baudo, in Quibdo, Choco department. Following these crimes, in July ONIC announced that it would suspend its participation in working groups with the Government for at least 30 days and demanded that the Administration clarify its policy toward indigenous people. ONIC maintained its suspension of dialog with the Government at year's end.

In August unidentified men killed Masael Cheta Cety, the indigenous governor of the Cristal Paez reservation in Florida municipality, Valle del Cauca department, and his wife.

In July the Special Representative of the U.N. Secretary General on human rights defenders, Hina Jilani, and the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary, or arbitrary execution, Asma Jahangir, expressed their deep concern over the murder and disappearance of indigenous leaders in the country. They drew the attention of the Government in particular to the paramilitary killing in June of Embera-Katio leader Pedro Alirio Domico, governor of Esmeralda River Indigenous Reserve, Cordoba department, and Alberto Sabugara Velasquez, leader of the Gengaro Indigenous Reserve, Choco department.

The authorities are seeking the detention of two suspects in the December 2000 murder of Embera leader Armando Achito in Jurado municipality, Choco department. The authorities continued to investigate the June 2000 murder of Joselito Bailarin, the Embera-Katio governor of the community of Canaverales, in Murri de Frontino in Antioquia department, by presumed paramilitaries. The authorities also continued to investigate the March 2000 disappearance of indigenous leader Jairo Bedoya Hoyos. The Indigenous Organization of Antioquia (OIA) held the AUC responsible. In an open letter, the AUC stated that it did not have Bedoya in its custody.

Paramilitary and guerrilla groups have forced indigenous people, including children, into their ranks (see Section 1.f.).

U'wa objection to initial drilling by Occidental Petroleum in an area near, but not on, their reserve continued. There was little exploration activity during the year due to security problems unrelated to the dispute with the U'wa, and no large demonstrations against the project were reported. The U'wa had filed several court challenges to drilling, and succeeded in winning brief delays before appeal courts ruled in favor of the Government's arrangement with Occidental. The U'wa reserve measures 1.25 million acres and has estimated oil reserves of up to 1 billion barrels. In August 2000, a technical working group including the Ministries of Interior and Environment, as well as an advisor to the U'wa, had reported that the Government and Occidental Petroleum were complying with all applicable regulations. The U'wa broke off talks with the Government in September 2000, in response to a ruling by the Government's agrarian reform agency authorizing the state oil company to purchase lands to create a buffer zone around the drilling area, and talks remained suspended during the year.

National/Racial/Ethnic Minorities.—According to the National Planning Department, the country has approximately 10.6 million citizens of African heritage. The departments with the largest number of Afro-Colombians are Valle, Antioquia, Bolivar, Atlantico, Magdalena, and Cordoba. However, the Pacific department of Choco has the highest percentage of Afro-Colombian residents, at 85 percent. There are also significant numbers of Afro-Colombians along the Caribbean coast. Although estimates vary, government figures indicate that Afro-Colombians represent approximately 26 percent of the total population.

Afro-Colombians are entitled to all constitutional rights and protections; however, they traditionally have suffered from discrimination. Afro-Colombian organizations report that Afro-Colombians have almost no representation in the executive branch, judicial branch, and civil service positions, and in military hierarchies (see Section 3). In addition, Afro-Colombian communities report that they have been disproportionately affected by violence related to the conflict. For example, according to the UNHCHR, approximately one-third of IDP's are indigenous or Afro-Colombian (see Section 2.d.).

Despite the passage of the Afro-Colombian law in 1993, little concrete progress has been made in expanding public services and private investment in Choco department or other predominantly Afro-Colombian regions. The same law also authorized Afro-Colombian communities to receive collective titles to some Pacific coastlands; however, Afro-Colombian leaders complained that the Government was slow to issue titles, and that their access to such lands often was inhibited by the presence of armed groups or individuals. Unemployment among Afro-Colombians ran as high as 76 percent in some communities. The March 2000 report of the UNHCHR noted that an estimated 80 percent of Afro-Colombians live in conditions

of extreme poverty, that 74 percent receive wages below the legal minimum, and that their municipalities have the highest rates of poverty. Choco remains the department with the lowest per capita level of social investment and is last in terms of education, health, and infrastructure. It also has been the scene of some of the country's most enduring political violence, as paramilitary forces and guerrillas struggled for control of the Uraba region.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right to organize unions, except for members of the armed forces, police, and persons executing “essential public services” as defined by law. In practice, violence against union members and antiunion discrimination are obstacles to joining unions and engaging in trade union activities. Labor leaders around the country continue to be targets of attacks by paramilitary groups, guerrillas, and narcotics traffickers. Union leaders contend that perpetrators of violence against workers, particularly members of paramilitary groups, operate with virtual impunity.

The heavily amended 1948 Labor Code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a simple registration process. However, the International Labor Organization (ILO) has received reports that this process is slow and sometimes takes years. The law penalizes interference with freedom of association and allows unions to determine freely their internal rules, elect officials, and manage activities. The law also forbids the dissolution of trade unions by administrative fiat. Law 584, which the President approved in 1999, limits government interference in a union's right to free association in accordance with recommendations made by the ILO Direct Contacts Mission. However, the law includes a provision authorizing Ministry of Labor officials to compel trade unions to provide interested third parties with relevant information on their work, including books, registers, plans, and other documents. The ILO Committee of Experts considers this amendment to be inconsistent with freedom of association, since it believes an administrative authority only should conduct investigations when there are reasonable grounds to believe that an offense has been committed.

According to the National Labor College (“Escuela Nacional Sindical”, or ENS), a Medellin-based NGO which collects, studies, and consolidates information on organized labor in the country, as of October, there were 2,482 registered unions with 860,281 affiliates. These figures are significantly lower than the 5,470 unions and 1,054,400 affiliates reported by the Ministry of Labor in 1997. Although specific statistics for the year are not available, a continuing downward trend is discernable. Only 4.5 percent of the work force of approximately 19 million is unionized. According to the CCJ, 89 percent of these workers are in the public sector. Government and labor sources estimate that between 87 and 95 percent of unions are affiliated with 1 of 3 confederations: The center-left United Workers' Central (CUT), with which 45 to 50 percent of unions are affiliated; the Social Christian Colombian Democratic Workers' Confederation (CGTD), with which approximately 30 percent of unions are affiliated; and the Liberal Party-affiliated Confederation of Colombian Workers (CTC), with which 12 to 15 percent of unions are affiliated.

The Constitution provides for the right to strike, except for members of the armed forces, police, and persons executing essential public services as defined by law.

Labor leaders nationwide continue to be targeted for attacks by paramilitaries, guerrillas, and narcotics traffickers. According to the U.N., the ILO, and trade union leaders, the vast majority of killings and attacks on labor leaders are committed by paramilitaries. According to the ENS, a total of 184 union activists were killed during the year. The ENS also reported that 23 unionists survived attempts on their lives, 203 were threatened with death, 37 were kidnaped, 12 disappeared, and 56 were forcibly displaced. Nearly 1,600 union members have been murdered since 1991, and unions face widespread societal hostility because some observers see them as “subversive.”

On January 22, an alleged paramilitary murdered Jose Luis Guete Montero, president of the National Union of Industrial and Agricultural Workers (SINALTRAINAGRO). An investigation was opened but had not made any significant progress by year's end. In March Valmore Locarno Rodriguez and Victor Hugo Orcasita, local president and vice president of miners' union SINTRAMINERGETICA at Drummond Corporation's La Loma coal mine in the northeastern department of Cesar, were abducted from their company bus and killed. In October presumed paramilitaries abducted Locarno's replacement as union president, Gustavo Soler, and then tortured and killed him.

In April Ricardo Orozco, vice president of the Hospital Workers Union was shot and killed near Barranquilla. Orozco's name had appeared on a list of union activists targeted by paramilitaries.

On June 21, Oscar Dario Soto Polo, chairman of the National Beverage Workers Union (SINALTRAINBEC) and a member of the CUT national committee, was killed in broad daylight while walking his 8-year-old daughter home from school. Soto's death and other murders, kidnappings, and incidents of harassment of beverage industry workers led the United Steelworkers of America and the International Labor Rights Fund to file suit in July in a U.S. district court on behalf of SINALTRAINAL, the Colombian National Food Industry Workers Union, against Coca-Cola and two affiliated Colombian bottlers. The suit alleges that the company has colluded with paramilitaries to harass, intimidate, kidnap, and kill union leaders over the past 10 years. Coca-Cola and its affiliated bottlers strongly deny the accusations.

On July 6, Hernando Hernandez Pardo, president of the Oil Workers Trade Union (USO), was reported barely to have escaped an attempt on his life by alleged paramilitaries in Barrancabermeja.

On November 30, the AUC kidnaped Aury Sara Marrugo, president of the Cartagena chapter of the USO, and his bodyguard. On December 5, their bodies were found near Cartagena. AUC political head Carlos Castano acknowledged kidnaping and executing Sara, who, Castano claimed, had confessed to being the commander of a local ELN front.

As of March, the Government had detained eight persons in connection with the December 2000 attempt to kill public employee union president Wilson Borja, an outspoken critic of paramilitary leader Carlos Castano and prominent advocate of the Government's negotiations with the ELN. In February the authorities arrested active duty police captain Carlos Gomez. The Inspector General's office alleged that Gomez had links to paramilitaries. Other detainees include an active duty army major, two retired members of the military, and four suspected paramilitaries. In December in response to new, credible death threats, Borja left the country.

Prosecutors have outstanding warrants for the arrest of paramilitary members Temilda Rosa Martinez and Eduardo Manrique Morales for the 1999 killing of Julio Alfonso Poveda, a CUT founder. In December 2000, the Prosecutor General's office arraigned three hired killers alleged to have killed CUT vice president Jorge Ortega in 1998.

There is still no information in the 1999 bombings of both the Association of Rural Land Users in Sincelejo, Sucre Department, and the Medellin office of the USO, where a bomb was defused. According to the ENS, there have been 14 bombing attempts against union offices in the last 4 years.

One of the 25 special human rights investigative subunits of the Prosecutor General's office is responsible for investigating cases of human rights violations against trade unionists, and there was a significant increase in the legal budget for judicial employees in 2000 that was maintained during the year. On the whole, government identification of perpetrators of crimes against trade union members has been slow, a situation which the ILO Special Representative's June report noted is aggravated by the difficulties faced by the office of the Inspector General and the judiciary in carrying out their inquiries and offering adequate assurances of protection so that witnesses are willing to come forward.

In February 2000, an ILO Direct Contacts Mission visited the country to examine alleged abuses of workers' rights to life, free association, and collective bargaining. In June 2000, the Mission presented a report to the Governing Body's Committee on Freedom of Association (CFA) which noted that the Government was "making sincere efforts" to address these problems. However, the report expressed concern over the number of murders, kidnappings, death threats, and other violent assaults on trade union leaders and unionized workers and stated that murders of trade union leaders and unionized workers were a "regular" occurrence. In response, the ILO committee on free association recommended an urgent inquiry into the participation of public officials in the creation of self-defense or paramilitary groups, an increase in government budgetary allocations to protect trade union officials, and an increase in efforts to combat impunity.

To monitor compliance with its recommendations, the ILO appointed Rafael Albuquerque, former Minister of Labor of the Dominican Republic, as ILO Special Representative to the country. Albuquerque began his work in October 2000 and presented a report to the ILO Administrative Committee in June. His report noted apparent government progress in combating paramilitarism; however, he also noted that the Government had been unable to stem effectively the violence affecting the trade union movement. Albuquerque also commented that in many departments of the country where there was little or no presence of the security forces, paramilitary

groups continue to dismantle trade unions by threatening the members of their executive committees.

In 1999 the Government developed the Program for the Protection of Human Rights Defenders and Trade Union Leaders to protect trade unionists from violence. As of December, the program had provided protection for 158 trade union premises and 1,033 leaders and activists. These individuals are provided with bulletproof vests, bodyguards, and in some cases vehicles. To pay for these expanded measures, the Government increased its budget for protective measures by over 400 percent. In May Claudia Caceres, director of the protection program, stated that her office was overwhelmed by the increase in its caseload. The number of cases has grown from 300 in 1999 to over 2,300 cases in December. Trade unionists complain that even these increased measures are insufficient to protect adequately the large number of trade unionists who are threatened, and they continued to press for more efforts to break the impunity with which most of these acts are committed.

Based on government commitments to combat paramilitarism, protect union members, and overcome impunity, the ILO decided in June not to send a formal Commission of Inquiry to the country. Instead, the ILO decided that its satellite office in the country should remain open and that a technical commission should be formed to assist the country in complying with recommendations made in the Special Representative's June report. The recommendations found in the June report focus on improving protective measures for union members, combating impunity, and encouraging freedom of association.

Before staging a legal strike, unions first must negotiate directly with management and, if no agreement results, accept mediation. The Labor Code prohibits the use of strike breakers. Legislation that prohibits all public employees from striking is still in effect, although it often is overlooked. By law, public employees must accept binding arbitration if mediation fails; however, in practice, public service unions decide by membership vote whether or not to seek arbitration.

In March state workers from the national, departmental, and municipal governments staged a 24-hour general strike to protest state sector layoffs and proposed reforms to the national pension system. In May teachers and health care workers, fearing reductions in their respective budgets, went on strike to protest proposed legislation that would have changed how public money is distributed to departments and municipalities. In June public sector workers staged a 48-hour strike to protest the Government's program of structural reforms. Workers at the Red Cross and the Social Security Institute also went on strike to protest proposed changes in their respective institutions. On November 1, members of the CUT, the CGTD, and the CTC staged a 24-hour strike to protest the Government's economic and social policies, high unemployment, and violence against labor leaders and human rights activists. Strike organizers stated that some 500,000 government workers took part in the action. The longest strike of the year took place from December 18, 2000, to February 28, at the factories of beverage manufacturer Bavaria, where over 6,300 employees walked out to protest stalled contract negotiations.

In August thousands of Bogota cab and bus drivers went on strike to protest restrictions on the circulation of public transportation vehicles; 20 persons were injured in the demonstrations. The strike paralyzed the capital for several days before the mayor and transportation unions negotiated a solution.

The Government still has not addressed a number of ILO criticisms of the Labor Code. The ILO had complained about the following provisions of the law: The requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their trades once 6 months have passed following a strike or dispute; the requirement that contenders for trade union offices must belong to the occupation that their union represents; the prohibition of strikes in a wide range of public services that are not necessarily essential; various restrictions on the right to strike; the power of the Minister of Labor and the President to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike. The ILO's June report noted the Government's continuing failure to address these criticisms.

Unions are free to join international confederations without government restrictions and do so in practice.

b. The Right to Organize and Bargain Collectively.—The Constitution protects the right of workers to organize and engage in collective bargaining. Workers in large firms and public services have been most successful in organizing, but these employees represent only a small percentage of the workforce. High unemployment, a large informal economic sector, traditional antiunion attitudes, and weak union organization and leadership limit workers' bargaining power in all sectors. A requirement that trade unions must represent a majority of workers in each company as a condi-

tion for representing them in sectoral agreements further weakens workers' bargaining power.

The law forbids antiunion discrimination and the obstruction of free association. However, according to union leaders, both discrimination and obstruction of free association occur frequently. Government labor inspectors theoretically enforce these provisions; however, there are only 271 labor inspectors to cover 1,097 municipalities and more than 300,000 companies. The inspection apparatus is therefore weak. Furthermore, labor inspectors often lack basic equipment, including vehicles. Guerrillas sometimes deter labor inspectors from performing their duties by declaring them military targets. In some cases paramilitaries have threatened unionists with killing if they do not renounce their collective bargaining agreements and carried out those threats.

The Labor Code calls for fines to be levied for restricting freedom of association. Collective pacts—agreements between individual workers and their employers—are not subject to collective bargaining and typically are used by employers to obstruct labor organization. Although employers must register collective pacts with the Ministry of Labor, the Ministry does not exercise any oversight or control over them.

The Labor Code also eliminates mandatory mediation in private labor-management disputes and extends the grace period before the Government can intervene in a conflict. Federations and confederations may assist affiliate unions in collective bargaining.

Labor law applies in the country's 15 free trade zones (FTZ's), but its standards often are not enforced in these zones. Public employee unions have won collective bargaining agreements in the FTZ's of Barranquilla, Buenaventura, Cartagena, and Santa Marta, but the garment manufacturing enterprises in Medellin and Risaralda, which have the largest number of employees, are not organized.

c. Prohibition of Forced or Compulsory Labor.—The Constitution forbids slavery and any form of forced or compulsory labor, and this prohibition generally is respected in practice in the formal sector; however, women and girls are trafficked for the purpose of sexual exploitation (see Section 6.f.).

Paramilitaries and guerrillas forcibly conscripted indigenous people (see Section 5). There were some reports that guerrillas use forced labor.

The law prohibits forced or bonded labor by children; however, the Government does not have the resources to enforce this prohibition effectively (see Section 6.d.). Although there were no known instances of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see Sections 1.f. and 5) or to work as prostitutes (see Section 5) or coca pickers, and trafficking in girls is a problem (see Section 6.f.). According to Save the Children, nearly 325,000 children working as domestic servants are fed poorly, are paid little or nothing, and are not free to seek other employment.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution prohibits the employment of children under the age of 14 in most jobs, and the Labor Code prohibits the granting of work permits to children under 18; however, child labor remains a significant problem, particularly in the informal sector. A 1989 decree established the Minors Code and prohibited the employment of children under age 12. It also required exceptional conditions and the express authorization of the Labor Ministry to employ children between the ages of 12 and 17. Children under age 14 are prohibited from working, with the exception that those ages 12 and 13 may perform light work with the permission of their parents and appropriate labor authorities. Children ages 12 and 13 may work a maximum of 4 hours a day, children ages 14 and 15 may work a maximum of 6 hours a day, and children ages 16 and 17 may work a maximum of 8 hours a day. All child workers are prohibited from working at night, or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Children are prohibited from working in a number of specific occupations, including mining and construction; however, these requirements largely are ignored in practice, and only 5 percent of working children possess the required work permits. By allowing children ages 12 and 13 to work, even under restricted conditions, the law contravenes international standards on child labor, which set the minimum legal age for employment in developing countries at 14 years.

In the formal sector, child labor laws are enforced through periodic review by the Ministry of Labor and the military, which ensure compliance with mandatory service requirements. However, in the informal labor sector and rural areas, child labor continues to be a problem, particularly in agriculture and mining. Children as young as 11 work full-time in almost every aspect of the cut flower industry. Even children enrolled in school or, in some cases, those too young for school, accompany their parents to work at flower plantations at night and on weekends. In the mining sector, coal mining presents the most difficult child labor problem. Many marginal, usually

family-run, mining operations employ young children as a way to boost production and income. It is estimated that between 1,200 and 2,000 children are involved. The work is dangerous and the hours are long. Younger children carry water and package coal, while those age 14 and up engage in more physically demanding labor such as carrying bags of coal. These informal mining operations are illegal. The Ministry of Labor reported that by the end of 1999 an interagency governmental committee had removed approximately 80 percent of child laborers from the informal mines and returned them to school.

The law prohibits the employment of minors for prostitution; however, child prostitution is a problem (see Section 5).

A Catholic Church study conducted in 1999 reported that approximately 2.7 million children work, including approximately 700,000 children who work as coca pickers. Observers note that the economic downturn might increase the number of children working, especially in rural areas. Child participation in agricultural work soars at harvest time. All child workers must receive the national minimum wage for the hours that they work. However, according to the Ministry of Labor, working children between the ages of 7 and 15 earned between 13 and 47 percent of the minimum wage. An estimated 26 percent of working children have regular access to health care; the health services of the social security system cover only 10 percent of child laborers. Approximately 25 percent are employed in potentially dangerous activities. School attendance by working children is significantly lower than for non-working children, especially in rural areas. A 1996 study by the national Human Rights Ombudsman of child labor in Putumayo department found that 22 percent of children between the ages of 5 and 18 were full-time coca pickers. In the municipality of Orito, the figure reached 70 percent.

The Labor Ministry has an inspector in each of the country's 32 departments and the national capital district, responsible for certifying and conducting repeat inspections of workplaces that employ children; however, the system lacks resources and covers only 20 percent of the child labor force employed in the formal sector of the economy. The National Committee for the Eradication of Child Labor includes representatives from the Ministries of Labor, Health, Education, and Communications, as well as officials from various other government offices, unions, employer associations, and NGO's. The Government also has obtained commitments from the country's leading trade associations and unions to implement child labor eradication programs, some of which were underway at year's end. In 2000 the Government formulated a 2000–02 Action Plan which gives priority to direct intervention on behalf of domestic child workers, child miners, sexually exploited children, children in trade activities, and children in the agricultural sector. Under the Action Plan, the Government distributes funds to member organizations for child labor eradication projects. It has also designed a project to collect more reliable national data on child labor; results are expected in Spring 2002.

The law prohibits forced and bonded labor by children; however, the Government is unable to enforce this prohibition effectively. The ICBF estimates that paramilitary and guerrilla groups employ 6,000 children as combatants (see Section 1.f.). Trafficking in girls for the purpose of sexual exploitation and child prostitution are problems (see Sections 5 and 6.f.).

e. Acceptable Conditions of Work.—The Government sets a uniform minimum wage for workers every January to serve as a benchmark for wage bargaining. The monthly minimum wage, set by tripartite negotiations among representatives of business, organized labor, and the Government was about \$125 (286,000 pesos). The minimum wage does not provide a decent standard of living for a worker and family. Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation in the past several years. An estimated 70 percent of all workers earn wages that are insufficient to cover the costs of the Government's estimated low-income family shopping basket. An estimated 76 percent of all workers earn no more than twice the minimum wage.

The law provides for a standard workday of 8 hours and a 48-hour workweek, but it does not require a weekly rest period of at least 24 hours, a failing criticized by the ILO.

Legislation provides comprehensive protection for workers' occupational safety and health; however, these standards are poorly enforced, in part because of the small number of Labor Ministry inspectors. In general, a lack of public safety awareness, inadequate attention by unions, and lax enforcement by the Labor Ministry result in a high level of industrial accidents and unhealthy working conditions. Over 80 percent of industrial companies lack safety plans. The Social Security Institute reported over 220,000 work-related accidents during the year, resulting in 1,277 deaths. The industries most prone to worker accidents were mining, construction, and transportation. According to private professional risk management com-

pany SURATEP, work-related accidents in the country cost \$3.3 billion (7.25 trillion pesos) each year, or approximately 3.7 percent of GNP. According to government statistics, over 5 million persons—many of them children—work in the informal sector and have no insurance against work-related injuries.

According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment. However, unorganized workers, particularly those in the agricultural sector, fear losing their jobs if they exercise their right to criticize abuses.

f. Trafficking in Persons.—In July a new Criminal Code went into effect which defines trafficking in persons as a crime; however, trafficking in persons, primarily women and girls, remains a problem. Colombia is a source country for trafficking in women and girls to Europe, the United States, Asia, and other Latin American countries. The DAS reported in 2000 that the country is one of the three most common countries of origin of trafficking victims in the Western Hemisphere; in 2000 an estimated 35,000 to 50,000 Colombian trafficking victims were overseas. The majority of women trafficked for prostitution reportedly go to the Netherlands, Spain, Japan, Singapore, and Hong Kong. A study carried out in Spain in 1999 by the Roman Catholic religious order the “Adoratrices” found that Colombian women constituted nearly half of all trafficking victims in that country. The Organization for Security and Cooperation in Europe issued a report on trafficking in persons in 1999 that stated that women and girls from Colombia also are trafficked to North America. According to press reports, more than 50 percent of women from Colombia who enter Japan are trafficking victims forced to work as prostitutes. Law enforcement authorities report that most trafficked persons come from the departments of Valle de Cauca, Antioquia, Santander, Cundinamarca, and the coffee-growing regions of Risaralda, Caldas, Quindio, and Tolima.

Police report that most traffickers are linked to narcotics or other criminal organizations. Traffickers disguise their intent by running media ads offering jobs, portraying themselves as modeling agents, offering marriage brokerage services, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loiter outside high schools, shopping malls, and parks to lure adolescents into accepting phantom jobs abroad.

The country’s overall situation of economic downturn, high unemployment, internal conflict between three major illegal armed groups, and social exclusion contributes to the availability of victims. While young women are the primary targets of traffickers, children and men also are affected. According to officials at the ICBF, a high rate of unwanted pregnancy in unwed teenage girls contributes to trafficking in children.

Law 599 of 2000, which became effective in July, made penalties for trafficking for purposes of prostitution equivalent to those for rape and sexual assault, carrying penalties of 6 to 8 years in prison and fines of up to 100 times the monthly minimum wage, currently equivalent to \$14,000 (39 million pesos). Trafficking of children under the age of 14 carries a more severe sentence of 5 to 9 years in prison. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. The Minister of Justice is lobbying for passage of even stricter antitrafficking legislation that would increase the penalty for trafficking for purposes of prostitution to 10 to 15 years, with heavier penalties for aggravating factors. The Prosecutor General’s office reported investigating 110 cases of trafficking between 1998–2001, resulting in 18 convictions to date.

According to the DAS, Interpol rescued 140 Colombian trafficking victims abroad during 1998–2001, and the National Police rescued an additional 147 victims during 1999–2001.

In May authorities captured four members of a criminal gang that kidnaped children and sold them abroad.

Additional efforts have addressed the problem of trafficking within the country’s own borders. According to UNICEF, approximately 25,000 children—16,000 of them between 8 and 12 years of age—are victims of sexual exploitation (see Section 5). The ICBF estimates that in Bogota alone there are over 10,000 girls and nearly 1,000 boys exploited as child prostitutes. In 2000 the Prosecutor General’s office created the Center for Attention to Victims of Sexual Crimes, which as of December had provided legal assistance in 2,200 cases of sexual aggression against women and children. During the year, the ICBF provided assistance, either directly or through other specialized agencies, to over 14,000 sexually exploited children.

A government advisory committee composed of representatives of the Ministry of Foreign Affairs, Interpol, the DAS, the Ministry of Justice, the Inspector General’s office, the Prosecutor General’s office, and the Presidency meets every 2 months to discuss trafficking in persons. Since 1997 the committee has prepared information

campaigns, promoted information exchange between government entities, created trafficking hot lines for victims, and encouraged closer cooperation between the Government and Interpol. Mayoral and gubernatorial staffs taking office following the October 2000 elections were given training by the Ministry of Justice and “Fundacion Esperanza” or the Hope Foundation (a Colombian NGO) on the problems of trafficking and the importance of expanding social services to populations vulnerable to trafficking. In November 2000, the Ministry of Justice, the Ministry of Foreign Affairs, the International Organization for Migration (IOM), and the Hope Foundation held the first national conference on trafficking in persons. A second conference sponsored by the IOM, the Catholic Church, several local NGO’s, and the city of Medellin took place in Medellin in November.

Victims do have access to generally limited government social services. In addition, the Government has instructed its consulates in foreign countries to provide legal and social assistance to victims of trafficking and has contracted 46 legal advisors and 16 social workers to help victims abroad. Government officials work with NGO representatives to arrange to meet returning victims at the airport.

The Hope Foundation, which assisted 57 trafficking victims in 2000, provides educational information, social support, and counseling to victims of trafficking who return to the country. It does not receive money from, but cooperates with the Government. Services provided by the Hope Foundation in coordination with government social service agencies include psychological counseling, social assistance, placement, and follow-up care.

COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. Miguel Angel Rodriguez of the Social Christian Unity Party (PUSC) won the presidency in the 1998 elections, in which approximately 70 percent of eligible voters cast ballots. The judiciary is generally independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which includes specialized units such as the antidrug police—and the Ministry of the Presidency share responsibility for law enforcement and national security. Several police units are combined within the Ministry of Public Security into a single “public force” that includes the Border Guard, the Rural Guard, and the Civil Guard. Public security forces generally observe procedural safeguards established by law and the Constitution; however, members of these forces occasionally committed human rights abuses.

The population is approximately 3.8 million, and the market economy is based primarily on light industry, tourism, and agriculture. Real gross domestic product (GDP) growth was estimated at 1.7 percent in 2000, compared with 8.3 percent in 1999. The central government deficit was 3 percent of GDP in 2000, compared with 2.2 percent of GDP in 1999. The deficit of the combined public sector, which includes the central government, was 3.8 percent of GDP in 2000 and 3.2 percent of GDP in 1999. Per capita income was \$3,900 in 2000. The Constitution protects the right to private property; however, domestic and foreign property owners encounter considerable difficulty obtaining adequate, timely compensation for lands expropriated for national parks and other purposes. The law grants substantial rights to squatters who invade uncultivated land, regardless of who may hold title to the property.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, but reports of police abuse of authority or misconduct decreased during the year. The judicial system processes some criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence is a serious problem, and traditional patterns of unequal opportunity for women remain, despite continuing government and media efforts to advocate change. Abuse of children also remains a problem, and child prostitution is a serious problem. Child labor persists.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

The two judicial officers accused in the 1994 murder of farmer *Ciro Monge* were convicted in 1997, appealed the rulings and lost; one fled the country in 1998 but was captured and returned to serve his sentence in February 2000. *Mauricio Garcia*, the third officer accused of the murder, did not appear for his trial in April 2000, but was apprehended later; in May the Cartago criminal court sentenced him to 12 years in prison.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence, and the authorities generally abide by these prohibitions; however, members of the public forces were responsible for some physical abuse. Reports of police abuse of authority or misconduct decreased during the year. An effective mechanism for lodging and recording complaints of police misconduct exists. The Ombudsman's office serves as a recourse to citizens that have complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. It investigates complaints and, when appropriate, initiates suits against officials.

The Ombudsman's office received 21 reports of police abuse of authority or misconduct during the year, compared with 52 in 2000, and 14 in 1999. The sharp decline in complaints of police abuse is largely due to the fact that there were a large number of complaints of alleged police brutality in March 2000 associated with the State Electricity and Telecommunications Company (ICE) strike in downtown San Jose (see Sections 2.b. and 6.a.).

A large percentage of Public Security Force police owe their appointments to political patronage. The Rodriguez Administration continued implementation of the 1994 Police Code designed to depoliticize and professionalize the police force, and introduced legislation that became the Law for Strengthening the Civilian Police, which took effect on March 23. The new law amends the Police Code to replace military ranks with civilian titles, codifies a danger pay provision based on 18 percent of the base salary for officers, and establishes a promotion system linked to officers' educational attainment. It also requires the police academy to develop a course and diploma in police administration that includes material on the fundamental and universal principles of human rights. Finally, the law attempts to ensure that police officials are not dismissed due to a change in administrations. Excluded from this rule of employment continuity are policy-level officials such as ministers, vice ministers, their advisers, and general directors of each public security force section. The Government's long-term plan is to establish permanent, professional cadres, eventually resulting in a nonpolitically appointed career force.

Prison conditions are considered generally fair, and they generally meet international standards. Prisoners generally receive humane treatment. Prisoners are separated by sex and by level of security (minimum, medium, and maximum). Most but not all pretrial detainees are held separately from convicted prisoners. As of August 2000, the Ombudsman's office had received two complaints of physical abuse of prisoners by guards, and four complaints of psychological abuse; compared with six complaints of physical abuse and six complaints of psychological abuse in all of 1999. The Ombudsman's office investigates complaints and refers serious cases of abuse to the public prosecutor. Illegal narcotics are readily available in the prisons, and drug use is common.

Penitentiary overcrowding remains a problem. The National Criminology Institute of the Ministry of Justice reported a total prison population of 11,858 in November, with an overpopulation of 839 prisoners. Although prison overcrowding decreased from 163 percent to 15 percent between 1992 and 2001, there remains severe overcrowding in several small jails. In November the Ministry of Justice reported an overpopulation rate of 43 percent at the women's prison, 90 percent at Liberia, 87 percent at Heredia, 42 percent at Limon, 38 percent at Perez Zeledon, and 35 percent at Puntarenas.

In 1996 the Supreme Court's Constitutional Chamber issued an order to the San Sebastian detention facility in San Jose, giving the institution 1 year to achieve minimally acceptable conditions for its prisoners. In August 2000, that court declared that no additional prisoners would be admitted to the San Sebastian prison until it met the U.N. minimum standards for the treatment of the imprisoned. As of November, the San Sebastian prison population was 27 percent over its capacity of 490.

The Ministry of Justice responded to the issue of prison overcrowding and the treatment of prisoners by calling for more funds for prison expansion. Five additional facilities have been opened and three have been undergoing renovation since 1999 as part of this plan. The Government also approved the budget for a series of detention facilities in outlying provinces, which are expected both to reduce over-

crowding and to locate prisoners closer to their families. During the year, the Government built a new facility in Guacimo and expanded facilities in San Carlos and Cartago. Physical plant improvements completed in October at San Sebastian have contributed to a safer and healthier environment with more modern medical and educational facilities.

Female prisoners are held separately in conditions that generally are considered fair; however, in November the women's prison held 43 percent more inmates than its intended capacity. Juveniles are held in separate detention facilities in campus-like conditions that generally are considered good.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution and law prohibit arbitrary arrest and detention, and the Government generally respects these prohibitions in practice.

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a court officer within 24 hours of arrest. The authorities generally respect these rights.

The law provides for the right to bail, and the authorities observe it in practice. Generally, the authorities do not hold detainees incommunicado. With judicial authorization, the authorities may hold suspects for 48 hours after arrest or, under special circumstances, for up to 10 days. According to the National Criminology Institute, in November there were 1,748 persons in pretrial detention, representing 27 percent of the prison population.

The Constitution bars exile as punishment, and it is not used.

e. Denial of Fair Public Trial.—The Constitution and law provide for an independent judiciary, and the Government generally respects this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right.

The Supreme Court supervises the work of the lower courts, known as tribunals. The Legislative Assembly elects the 22 Supreme Court magistrates to 8-year terms, subject to automatic renewal unless the Assembly decides otherwise by a two-thirds majority. Accused persons may select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent.

Persons accused of serious offenses and held without bail sometimes remain in pretrial custody for long periods (see Section 1.d.). Lengthy legal procedures, numerous appeals, and large numbers of detainees cause delays and case backlogs.

There were no new reports of political prisoners. However, one individual was jailed for committing crimes against the State (politically motivated acts of violence) in the 1980's. The human rights group Families for the Defense of Political Prisoners and Human Rights considers this person to be a political prisoner. The Government contends that this individual, who was in a furlough program at year's end, was sentenced for three murders and is not a political prisoner.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices; government authorities generally respect these prohibitions; and violations are subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in limited circumstances, primarily to combat narcotics trafficking. On December 12, the President signed a new law that permits wiretapping in investigations of genocide, homicide, procurement of minors, production of pornography, smuggling of minors, corruption of minors, trafficking in the organs of minors, and international crimes. The latter category includes acts directed by international criminal organizations involved in terrorism, kidnaping, and trafficking in slaves, women, children, or narcotics.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title have damaged the real property interests of many who believe they hold legitimate title to land. Landowners throughout the country have suffered frequent squatter invasions for years. The incidence of squatter invasions had increased in 1999 in anticipation of the land tenure regularization. During 2000, the Government removed 230 families without reports of protests or violence. However, on July 20, the Government removed 400 families from a Standard Fruit Company property in Rio Frio, involving use of tear gas by police and gunfire by some of the squatters. The Red Cross reported that in the aftermath it treated 38 individuals, including 5 policemen and 8 squatters. According to the Ministry of Public Security, one squatter who was injured by tear gas later died from an illness unrelated to the tear gas exposure.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. An independent press, a generally effective judiciary, and a functioning democratic political system together ensure freedom of speech and of the press.

There are 6 major privately owned newspapers, several periodicals, 1 government and 2 privately owned television stations, and 1 government and over 90 privately owned radio stations, all of which pursue independent editorial policies.

A 1996 “right of response” law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Print and electronic media continued to criticize public figures; however, media managers have found it difficult to comply with provisions of this law. The Penal Code outlines a series of “insult laws” that establish criminal penalties of up to 3 years in prison for those convicted of “insulting the honor or decorum of a public official.” The law also identifies defamation, libel, slander, and calumny as offenses against a person’s honor that can carry criminal penalties. The Inter-American Press Association and the World Press Freedom Committee assert that such laws have the effect of restricting reporting by the media, and that they wrongly provide public officials with a shield from public scrutiny by citizens and the press.

The unsolved murder on July 7 of popular radio host Parmenio Medina led to considerable public debate on press freedoms and renewed attention to legislative proposals aimed at easing media restrictions. The murder followed heightened attention to limitations on the press subsequent to a decision by the Inter-American Court of Human Rights on May 23 that suspended a 1999 sentence against major daily newspaper *La Nación* and its journalist for violations of the Law of False Accusations. The Legislative Assembly responded by incorporating three existing and two new legislative proposals addressing press freedoms into one bill. It contains provisions that would require the press to provide more definite proof confirming reported material; allow the press to cite and publish material attributed to third parties without punitive measures; dismantle existing “insult” laws; and require proof of malicious intent when litigating against media sources. The revisions include changes to constitutional provisions, laws, penal, and electoral codes. The Assembly created a committee to study the different proposals, but at year’s end, the bill was still with the committee.

The Office of Control of Public Spectacles rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. Nonetheless, a wide range of foreign films is available to the public. A tribunal reviews appeals of the office’s actions.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for these rights, and the Government generally respects them in practice.

In March 2000, public sector employees, students, taxi drivers, and other workers called a general strike that lasted several days to protest the passage of legislation that would partially open the electrical company to private participation. The police disbanded the protests with tear gas and riot gear, which drew complaints of abuse and police brutality. In response to a suit, the Constitutional Court found that the police response violated participants’ free speech rights and directed the Government to pay punitive damages to the plaintiffs.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Constitution establishes Roman Catholicism as the state religion; however, it also prohibits the State from impeding the free exercise of other religions “that do not impugn universal morality or proper behavior.” Members of all faiths freely practice their religion without government interference. The law grants the Catholic Church tax-free status and allows for the Government to provide land to the Catholic Church. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference, which does not certify teachers from other denominations or faiths. Denominational and nondenominational private schools are free to offer any religious instruction they see fit. Foreign missionaries and clergy of all faiths work and proselytize freely.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government respects them in practice. There are no restrictions on travel within the country, on emigration, or on the right of return.

There is a long tradition of providing refuge to persons from other countries. The law provides for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Pro-

to col, and the Government has admitted 7,673 persons as refugees under terms of the convention as of December 31. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government makes a distinction between political asylum and refugee status. The issue of the provision of first asylum did not arise. The UNHCR reported that the Government received 5,183 requests for asylum during the year. The Constitution specifically prohibits repatriation of anyone subject to potential persecution, and there were no reports of the forced return of persons to a country where they feared persecution.

The authorities regularly repatriate undocumented Nicaraguans, most of whom enter the country primarily for economic reasons. However, following Hurricane Mitch in 1998, the Government announced a program of general amnesty for all Nicaraguans, Hondurans, and Salvadorans in the country prior to November 9, 1998. By year's end, 213,037 Nicaraguans had qualified for and received legal resident status, most of them under this government amnesty program. According to the General Directorate of Migration, the Government deported 54,486 Nicaraguans during the year.

Immigration officials reported that 3,722 Colombians were resident at the end of the year. The majority enter in legal visitor status and apply for residence. According to the UNHCR, 1,389 Colombians requested refugee status in 2000, and this figure increased to 5,018 during the year. Colombians with refugee status numbered 2,636 on December 31; 2,126 were granted this status during the year. These figures do not include other kinds of recognitions, namely for family reunification. Those who seek temporary refugee status are expected to return to their country of origin once the period of conflict ends in their country.

Allegations of abuse by the Border Guard periodically arise. Although instances of physical abuse appear to have declined, there continued to be credible reports of extortion of migrants by border officials.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through free and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensures the integrity of elections, and the authorities and citizens respect election results. The Constitution bars the President from seeking reelection, and Assembly members may seek reelection only after at least one term out of office. In September 2000, the constitutional provision regarding presidential reelection was challenged when former President Oscar Arias petitioned to be allowed to participate in the 2002 election. Both the Legislative Assembly and the Constitutional Chamber denied his request. In December the Inter-American Commission on Human Rights (IACHR) decided not to accept a complaint against the Government alleging that the ban on presidential reelection constitutes an infringement of citizens' electoral rights.

In the 1998 elections, President Rodriguez's PUSC party won a plurality in the Legislative Assembly, winning 27 of 57 seats. The National Liberation Party (PLN) won 23 seats, the Democratic Force won 3 seats, and 4 minor parties—the Labor Action, National Integration, Costa Rican Renovation, and Libertarian Movement parties—each won 1 seat.

Women encounter no legal impediments to their participation in politics; however, the percentage of women in government and politics does not correspond to their percentage in the population. Nonetheless, women are represented increasingly in leadership positions in the Government and political parties. In 1998 the PUSC mandated that a minimum of 40 percent of posts in party councils be occupied by women. The Supreme Electoral Tribunal is attempting to increase women's representation in the government, requiring that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. Both vice presidents (who are also cabinet members), the Minister of Justice, the Minister of Women's Affairs, and 11 legislative assembly deputies are women. Mireya Hernandez, leader of the PLN, the principal opposition party, is also a woman. Former Assembly Deputy Sandra Pizsk served as Ombudsman and is the PLN candidate for Second Vice President in the 2002 elections. Lineth Saborio resigned as Director General of the Judicial Investigations Organization to run for office as the PUSC's candidate for First Vice President. The Foundation of Women Parliamentarians of Costa Rica promotes women's involvement in politics through informational meetings and public awareness campaigns and also works for a number of social objectives, including the decentralization of government.

Indigenous people may participate freely in politics and government; however, in practice, they have not played significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. They account for about 1 percent of the population, and their approximately 20,000 votes constitute an important swing vote in national elections. None of the 57 members of the Legislative Assembly identifies himself as indigenous. There are two Afro-Caribbean members in the Assembly; both represent the Caribbean province of Limon. The country's 100,000 Afro-Caribbeans, who mostly reside in that province, enjoy full rights of citizenship, including the protection of laws against racial discrimination.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Various human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and responsive to their views. The Costa Rican Commission for Human Rights, the Commission for the Defense of Human Rights in Central America, and the Family and Friends of Political Prisoners of Costa Rica monitor and report on human rights, as does the Ombudsman's office.

The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office is part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative, and judicial independence of the Ombudsman's office.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, are located in San Jose.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides that all persons are equal before the law, and the Government generally respects these provisions.

Women.—The Government has identified domestic violence against women and children as a serious societal problem. According to data compiled by the judicial branch in 2000, 32,646 reports of domestic abuse were received—6,209 more than in 1999; however, 70 percent of the cases were dropped because the women decided not to pursue prosecution. The 1996 Law Against Domestic Violence establishes precautionary measures to help victims. During the year, the Legislative Assembly considered a Bill to Qualify Violence Against Women as a Crime. This bill would classify certain acts of domestic violence as crimes and mandate their prosecution whether or not the victim pursues charges against the perpetrator. In December the Assembly approved the bill in first debate, but it had not become law by year's end. An old law permitted a judge to pardon a man accused of statutory rape if the perpetrator intends to marry the victim, she and her family acquiesce, and the National Institute for Children does not object; however, an August 1999 reform to the Penal Code rendered this article void. The authorities have incorporated training on handling domestic violence cases into the basic training course for new police personnel. The domestic violence law requires public hospitals to report cases of domestic violence against women. It also denies the perpetrator possession of the family home in favor of the victim. Television coverage of this issue has increased in news reporting, public service announcements, and feature programs. Reports of violence against women have increased, possibly reflecting a greater willingness of victims to report abuses rather than an actual increase in instances of violence against women. The public prosecutor, police, and the Ombudsman all have offices dedicated to this problem. The law against sexual harassment in the workplace and educational institutions seeks to prevent and punish sexual harassment in those environments.

Prostitution is legal for persons over the age of 18. The Penal Code prohibits individuals from promoting or facilitating the prostitution of individuals of either sex, independent of the individual's age, and the penalty is increased if the victim is an individual under the age of 18.

The prohibition against trafficking in women for the purpose of prostitution was strengthened by a statute that went into effect in August 1999, although trafficking is a problem (see Section 6.f.).

According to the 2000 census, women constitute 49.6 percent of the population. In 1998 President Rodriguez created the office of Minister of Women's Affairs, who also heads the National Institute for Women, an autonomous institution dedicated to gender equity. The 1990 Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the Government to promote

political, economic, social, and cultural equality. In 1996 the Government's National Center for the Development of Women and the Family presented its 3-year National Plan for Equality of Opportunity between Women and Men; the plan is still being implemented. The plan is based on the Platform for Action adopted at the Fourth World Conference on Women in Beijing in 1995. As part of the plan, the Government established an office for gender issues in the Ministry of Labor; similar offices are planned in two other ministries.

According to the U.N. Development Program, women over age 15 represent 36.6 percent of the labor force. Most women (76 percent) work in the service sector, with the remainder working in industry (17 percent) and agriculture (6 percent). Women occupy 45 percent of professional and technical positions, and 30 percent of legislative, senior official, and managerial positions. The Constitution and Labor Code require that women and men receive equal pay for equal work; however, the estimated earned income for women is approximately 35 percent of the earned income for men, \$4,518 and \$13,080 respectively.

Children.—The Government is committed to children's rights and welfare through well-funded systems of public education and medical care. The law requires 6 years of primary and 3 years of secondary education for all children. There is no difference in the treatment of girls and boys in education or in health care services. In 1998 the Legislative Assembly passed a constitutional amendment increasing spending on education from 4 percent to 6 percent of GDP. The country has a high rate of literacy (95 percent) and a low rate of infant mortality (10 persons per 1,000). The Government spends over 5 percent of GDP on medical care. The autonomous National Institute for Children (PANI) oversees implementation of the Government's programs for children.

In recent years, the PANI has increased public awareness of abuse of children, which remains a problem. From January to June, the Institute intervened in 3,640 cases of abandonment (compared with 3,704 cases in the first 6 months of 2000), 1,246 cases of physical abuse (compared with 1,013), 573 cases of sexual abuse (compared with 536), and 941 cases of psychological abuse (compared with 885) of children. The PANI attributed the increase in cases reported to better reporting capabilities and an increase in patterns of child abuse. There was also a continued increase in reported psychological abuse cases, in part because the 1997 Code of Childhood and Adolescence redefined such abuse and increased awareness of it. Abuses appear to be more prevalent among poor, less-educated families. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hamper legal proceedings against those who commit crimes against children.

The Government, police sources, and UNICEF representatives acknowledge that child prostitution is a serious problem (see Section 6.f.). Although no official statistics exist, the PANI has identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. Estimates of the number of children involved in prostitution vary widely and the only scientific studies have focused on limited areas. An International Labor Organization (ILO) study of 4 San Jose neighborhoods in 1998–99 identified at least 212 minor girls working as prostitutes, but other countrywide estimates are higher. A PANI study estimated that some 40 families in August 2000 supported themselves by “renting” their children to sex tourists. The 1999 Law Against the Sexual Exploitation of Minors specifically penalizes persons who use children and adolescents under age 18 for erotic purposes and makes it a crime to engage in prostitution with minors. An adult who pays for sex with a minor can be sentenced to 2 to 10 years in prison. The Government took steps to enforce this law and has raided brothels and arrested clients. For example, police arrested five men involved in a so-called Costa Rican Association of Pedophiles for sexually exploiting four children. The children were given cocaine and marijuana before they were exploited, and they were to receive about \$21 (5,000 colones) payment for having sex with pedophiles. After the arrest, the children were returned to their families who live in the poorest sections of San Jose. The law provides for prison sentences from 4 to 10 years for those managing or promoting child prostitution. During the year, the authorities brought charges against 9 persons for violating the law and convicted 4 of them; in 2000, charges were brought against 30 persons and 4 were convicted.

The NGO Casa Alianza operates a 24-hour telephone help line that received 240 accusations of exploitation of minors in 2000. In March 2000, the organization made a presentation to the IACHR about what it termed the growing commercial sexual exploitation of children in the country. Casa Alianza criticized the Government for not providing the PANI with 7 percent of national tax revenue since 1998, as stipulated by the law creating the PANI, and also criticized the Government for the relatively low number of persons actually charged, found guilty, and sentenced for child exploitation.

According to Mario Viquez, Ombudsman for Children's Issues, the PANI receives most of its revenue from a government development fund and budget transfers from various ministries. The 7 percent earmark for the PANI was not included in the government budget. The Government asserts that its fiscal situation does not allow it to include the earmarks in its budget and notes that the total of all legislative earmarks is greater than the Government's revenue. On January 25, four deputies in the Legislative Assembly filed an injunction against the Minister of Finance and the National Treasurer alleging that they had not paid the PANI funds allocated to it under the law on Alcohol and Cigarette Taxes. On May 11, the Constitutional Court required the Government to pay the PANI these revenues. In June the Constitutional Court ordered the Government to pay the PANI funds from the 7 percent earmark. On September 11, Casa Alianza filed criminal charges against the former Finance Minister for failure to comply with the Constitutional Court orders and revenue provisions of the law that created the PANI, and in December it filed a similar complaint against the Finance Minister.

Persons with Disabilities.—The 1996 Equal Opportunity for Persons with Disabilities Law prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. This law is not enforced widely, and many buildings remain inaccessible to persons with disabilities. In July 2000, a government study concluded that only 35 percent of the law's stated goals had been implemented. Nonetheless, a number of public and private institutions have made individual efforts to improve access. In 1999 the PANI and the Ministry of Education published specific classroom guidelines for assisting children with hearing loss, motor difficulties, attention deficit disorder, and mental retardation. In October 2000, the Ministry reported that since 1998 there had been a 20 percent increase in special education services offered throughout the country, and that 116 special education centers had been created.

The Ministry of Education operates a Program for Persons with Disabilities, and in November President Rodriguez's wife received an award from Goodwill Industries for her efforts to support it. The program includes a national resource center that provides parents, students, and teachers with advanced counseling, training, and information services.

Indigenous People.—The total population of about 3.8 million includes nearly 40,000 indigenous persons among 8 ethnic groups. Most live in traditional communities on 22 reserves which, because of their remote location, often lack access to schools, health care, electricity, and potable water. The Government, through the National Indigenous Commission, distributed identification cards to facilitate access to public medical facilities in 1999. The Government also built a medical clinic and several community health centers in indigenous areas. The Ombudsman has an office to investigate violations of the rights of indigenous people. In 1999 a group of indigenous persons from Puntarenas challenged the constitutionality of the 1978 Indigenous Law because of their inability to possess private property on the reservation. The Supreme Court's Constitutional Chamber rejected this challenge in January 2000.

Section 6. Worker Rights

a. The Right of Association.—The law specifies the right of workers to join unions of their choosing without prior authorization, although barriers exist in practice. About 15 percent of the work force is unionized and approximately 80 percent of all union members are public sector employees. Unions operate independently of government control.

Some trade union leaders contend that "solidarity" associations infringe upon the right of association. Solidarity associations are nondues paying organizations that offer membership services, including credit union programs, matching-fund savings accounts, and low-interest loans; in some instances, employees have access to both trade union membership and solidarity association services.

In 1995 the ILO Committee of Experts (COE) encouraged the Government to approve legislation to allow unions to administer compensation funds for dismissed workers and to repeal labor code provisions restricting the right to strike in certain nonessential public, agricultural, and forestry sectors. The International Confederation of Free Trade Unions reported that the Labor Ministry provided information about newly formed unions to employers who then encouraged formation of solidarity associations and blacklisted union members. The Labor Ministry denied the reports but acknowledged that solidarity association culture is deeply embedded. During 1999 and 2000, the Labor Ministry received six complaints charging antiunion discrimination. The Labor Ministry provided restitution to aggrieved workers in two cases through administrative mechanisms. Courts resolved the re-

maining 4 cases; in 3 cases involving 16 workers, they were reinstated to their jobs, and in 1 case involving 3 workers, the court dismissed the complaint.

In 1998 the Rerum Novarum Workers Confederation complained about government noncompliance with commitments to protect worker rights but withdrew the complaint after the Rodriguez administration asked for a reasonable period to demonstrate its commitment to worker rights. Some labor unions did not support the complaint because they believed that it interfered with the administration's national reconciliation process. In August 2000, the Rerum Novarum confederation resubmitted the complaint against the Government. In June that complaint served as the basis for an AFL-CIO petition to remove Costa Rica from the list of beneficiary countries under the U.S. General System of Preferences and the Caribbean Basin Economic Recovery Act. The Government filed its response to the petition in August; a U.S. interagency review process of that petition was under way at year's end.

The Constitution and Labor Code restrict the right of public sector workers to strike. However, in 1998 the Supreme Court formally ruled that public sector workers, except those in essential positions, have the right to strike. Even before this ruling, the Government had removed penalties for union leaders participating in such strikes.

In March 2000, the Supreme Court's Constitutional Chamber clarified the law forbidding public sector strikes. It ruled that public sector strikes may be allowed only if a judge approves them beforehand and finds that "services necessary to the well-being of the public" are not jeopardized. Public sector workers who decide to strike can no longer be penalized by a prison sentence but can face charges of breach of contract.

In March 2000, ICE workers, employees from public hospitals, teachers, students, taxi drivers, and public transportation workers called a general strike that lasted several days to protest the passage of legislation that would have partially opened the ICE to private participation (see Section 2.b.).

There are no legal restrictions on the right of private sector workers to strike, but very few private sector workers belong to unions. Private sector strikes rarely occur, and there were no major private sector strikes during the year.

Unions may form federations and confederations and affiliate internationally.

b. The Right to Organize and Bargain Collectively.—The Constitution protects the right to organize. Foreign nationals are expressly prohibited from exercising direction or authority in unions. Specific provisions of the 1993 Labor Code reforms provide protection from dismissal for union organizers and members during union formation. The employer is not obligated to follow any specific procedures to prove grounds for dismissal. The revised provisions require employers who are found guilty of unfair labor practices to reinstate workers fired for union activities. However, the ILO's Committee on Freedom of Association reported in 1999 that harassment still was used to force workers to leave unions, and that other violations of labor legislation continued to occur. In a 1998 incident, a company in the banana industry refused to negotiate with a legitimate union for 3 years. The company eventually fired the union leader and established a solidarity association. The Labor Ministry reported cases from the banking, transportation, and agricultural sectors, in which union leaders fired without cause were restored to their positions with back pay.

There were no new developments during the year in the ILO complaint filed by a union alleging antiunion discrimination in the banana industry, or on the complaint filed by the teachers union.

Trade unions claim that the 1993 reforms have not led to significant improvements because the Government has not enforced the law effectively. The Constitutional Chamber ruled that the National Inspection Directorate must comply with the 2-month time limit for investigations. The ILO has criticized this procedure for giving no guarantee or reparations for damages caused, even if the legal deadlines are respected, since the labor inspectors simply certify the wrongdoing but file no charges. Most cases take up to 2 months to resolve, but some may take longer if the judge decides that an unusual situation merits further investigation and requires witnesses. Delays in processing court rulings are common throughout the judicial branch. Since 1998 the Ministry of Labor has modernized the National Inspection Directorate, to enable it to support worker rights by increasing the authority of regional officers to investigate and process cases of alleged abuse by employers. These regional offices also establish local forums where government officials, employers, and employees can discuss labor issues. Inspectors have been provided increased opportunities for training and participation in Ministry of Labor administration.

On May 31, a Constitutional Court decree defined the judicial framework for collective bargaining in the public sector. On June 15, the Assembly approved a law

permitting public employees to participate in collective bargaining, except in circumstances that would violate existing bylaws or when the employee occupies a managerial position in the government. Private sector unions have the legal right to engage in collective bargaining. However, collective bargaining is rare—there were fewer than 20 collective agreements in force in 2000. Collective bargaining has diminished as a result of several factors, including lengthy delays in court processing of unfair dismissal suits and solidarity associations in effect displacing trade unions. Solidarity associations are barred by law from negotiating work conditions, salaries, and benefits.

All labor regulations apply fully to the country's nine export processing zones (EPZ's). The Labor Ministry oversees labor regulations within the EPZ's. It reported that in September, it had 1 inspector for every 8,526 workers, compared with 1 inspector for every 9,000 workers in 2000, and 1 for every 30,000 in 1999.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor; however, the country is a transit and destination country for trafficked persons (see Section 6.f.). Laws prohibit forced and bonded labor by children, and the Government generally enforces this prohibition effectively; however, there have been reports of girls trafficked to the country for sexual exploitation (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution and the Labor Code provide special occupational protection for minors and pregnant and nursing women, and establish a minimum working age of 15 years. Adolescents between the ages of 15 and 18 can work for a maximum of 6 hours daily and 36 hours weekly with special permission from the PANI, while children under the age of 15 cannot work legally. The PANI, in cooperation with the Labor Ministry, generally enforces these regulations in the formal sector. Due to limited government resources for enforcement, some children work on the fringes of the formal economy in violation of these limits. Youths under the age of 18 may not work in the banana industry. According to PANI estimates for 2000, 19 percent of children between the ages of 5 and 17 were employed in domestic tasks, while 15 percent worked outside the home. According to the National Institute of Census and Statistics, in 1998 147,000 (15.4 percent) of the country's 954,000 children were employed. Of this working population, 66,762 (45 percent) were under the age of 18. Of the employed children, 39 percent worked 57 hours per week, which is 21 hours above the 36 hours a week permitted by law. The survey showed that children between the ages of 5 and 11 are paid only 11.6 percent of the minimum wage, those between the ages of 12 and 14 are paid 21 percent of the minimum wage, and the group between the ages of 15 and 17 is paid 56 percent of the minimum wage.

With help from the ILO, the Labor Ministry is working to phase out child labor and has asked employers of children to notify the Ministry of such employment. The National Directive Committee for the Progressive Eradication of Child Labor and Protection of Adolescent Laborers includes representatives from the PANI, the Ministry of Labor, the Ministry of Justice, the Ministry of Public Security, the Ombudsman's Office, UNICEF, the ILO, and area universities. In 1999 the Committee conducted an aggressive public awareness campaign as part of its national plan, which continued at a lower level during the year. The campaign addressed child labor and explained existing legislation to audiences of different age groups. Committee members were also involved in a consultative process to encourage ratification of ILO Convention 182 on elimination of the worst forms of child labor, which the Legislative Assembly approved on July 30. The Ministry of Labor maintains an Office for the Eradication of Child Labor, which cooperates with projects sponsored by the ILO, U.N. Development Program, and other entities. Nonetheless, child labor remains an integral part of the informal economy, particularly in small-scale agriculture and family-run microenterprises selling various items, which employ a significant proportion of the labor force. Child prostitution is a serious problem (see Sections 5 and 6.f.). The law prohibits forced and bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work.—The Constitution provides for a minimum wage. A National Wage Council, composed of three members each from government, business, and labor, sets minimum wage and salary levels for all sectors. Monthly minimum wages for the private sector, last adjusted on July 1, range from \$144 (47,982 colones) for domestic employees to \$699 (232,546 colones) for some professionals. Public sector negotiations, based on private sector minimum wages, normally follow the settlement of private sector negotiations. The Ministry of Labor effectively enforces minimum wages in the San Jose area, but does so less effectively in rural areas. Especially at the lower end of the wage scale, the minimum wage is not sufficient to provide a worker and family with a decent standard of living.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Although often circumvented in practice, it also requires compensation for discharge without due cause. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers do not receive overtime pay if they voluntarily work beyond their normal hours. Little evidence exists that employers coerce employees to perform such overtime.

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law establish such committees but either do not use the committees or do not turn them into effective instruments for improving workplace conditions. Due partly to budgetary constraints, the Labor Ministry has not fielded enough labor inspectors to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose. However, Labor Ministry programs to hire additional inspectors and enhance inspector-training programs have resulted in some progress. While workers have the right to leave work if conditions become dangerous, workers who do so may jeopardize their jobs unless they file written complaints with the Ministry of Labor.

f. Trafficking in Persons.—The law prohibits trafficking in women for the purpose of prostitution, and in 1999 a statute went into effect that strengthens this prohibition; however, Costa Rica is a transit and destination country for trafficked persons. Isolated cases of trafficking have involved persons from Africa, Asia, Bolivia, China, Colombia, Cuba, the Dominican Republic, and the Middle East. There also have been reports of girls from the Philippines being trafficked to the country for the purpose of sexual exploitation.

In November 2000, the Government arrested a known alien smuggler and accomplices. The smuggler was arrested for falsification of documents and bribery of government officials; a mid-level official of the General Directorate for Immigration was also arrested. The authorities charged the immigration official with document falsification; at year's end, he remained in detention pending trial.

The Criminal Code prohibits trafficking in women and minors for the purpose of prostitution, but it does not address all severe forms of trafficking. There is a government Inter-Ministerial Group on Trafficking to address the problem in the country. Each participating ministry reportedly has incorporated preventive trafficking measures into its ministerial agenda. Child prostitution is a problem (see Section 5), and the Government supports prevention programs to combat sexual exploitation of minors and trafficking. There are limited formal mechanisms specifically designed to aid trafficked victims; however, the Government does offer indirect assistance to child victims of trafficking. Victims are not granted temporary or permanent residence status and often are deported immediately to their country of origin.

CUBA

Cuba is a totalitarian state controlled by President Fidel Castro, who is Chief of State, Head of Government, First Secretary of the Communist Party, and commander-in-chief of the armed forces. President Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy headed by the Council of State, and the state security apparatus. The Communist Party is the only legal political entity, and President Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 601-member National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies previously decided by the governing Council of State. The Communist Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

The Ministry of Interior is the principal entity of state security and totalitarian control. Officers of the Revolutionary Armed Forces (FAR), which are led by Raul Castro, the President's brother, have been assigned to the majority of key positions in the Ministry of Interior in the past several years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigates and actively suppresses political opposition and dissent. It maintains a per-

vasive system of surveillance through undercover agents, informers, rapid response brigades (RRB's), and neighborhood-based Committees for the Defense of the Revolution (CDR's). The Government traditionally uses the CDR's to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior. During the early 1990's, economic problems reduced the Government's ability to reward participation in the CDR's and hence the willingness of citizens to participate in them, thereby lessening the CDR system's effectiveness. RRB's consist of workers from a particular brigade (construction workers, a factory, etc.) that are organized by the Communist Party to react forcefully to any situation of social unrest. The Government on occasion used RRB's instead of the police or military during such situations. Other mass organizations also exert government and Communist Party control over citizens' daily activities at home, work, and school. Members of the security forces committed numerous serious human rights abuses.

The country's population is approximately 11 million. The Government continued to control all significant means of production and remained the predominant employer, despite permitting some carefully controlled foreign investment in joint ventures. Foreign companies are required to contract workers only through state agencies, which receive hard currency payments for the workers' labor but in turn pay the workers a fraction of this (usually 5 percent) in local currency. In 1998 the Government rescinded some of the changes that had led to the rise of legal nongovernmental business activity when it further tightened restrictions on the self-employed sector by reducing the number of categories allowed and by imposing relatively high taxes on self-employed persons. In September 2000, the Minister of Labor and Social Security publicly stated that more stringent laws should be promulgated to govern self-employment. He suggested that the Ministry of Interior, the National Tax Office, and the Ministry of Finance act in a coordinated fashion to reduce "the illegal activities" of the many self-employed persons; however, there were no reports of coordination between these agencies during the year. According to government officials, the number of self-employed persons as of October 2000 was 109,562, a decrease from the 124,082 reported in 1999. If artists and intellectuals are included, the number of self-employed persons rises to 154,312.

According to official figures, the economy grew 3.6 percent during the year. Despite this, overall economic output remained below the levels prior to the drop of at least 35 percent in gross domestic product (GDP) that occurred in the early 1990's. This drop was due to the inefficiencies of the centrally controlled economic system; the loss of billions of dollars of annual Soviet bloc trade and Soviet subsidies; the ongoing deterioration of plants, equipment, and the transportation system; and the continued poor performance of the important sugar sector. The 2000-2001 sugar harvest was more than 3.5 million tons, the second worst harvest in more than 50 years. In November Hurricane Michelle killed five persons and caused severe damage to tens of thousands of homes, the telecommunications system, and the electrical infrastructure; it also destroyed much of the export-earning citrus crops and affected 54 percent of the sugar crop. The Government continued its austerity measures known as the "special period in peacetime," which were instituted in early 1990's. Agricultural markets provide consumers wider access to meat and produce, although at prices beyond the reach of most citizens living on peso-only incomes or pensions. Given these conditions, the flow of hundreds of millions of dollars in remittances from the exile community significantly helped those who received dollars to survive. Tourism remained a key source of revenue for the Government. The system of so-called "tourist apartheid" continued, with foreign visitors who paid in hard currency receiving preference over citizens for food, consumer products, and medical services. Most citizens remained barred from tourist hotels, beaches, and resorts.

The Government's human rights record remained poor. The Government continued to violate systematically the fundamental civil and political rights of its citizens. Citizens do not have the right to change their government peacefully. Prisoners died in jail due to lack of medical care. Members of the security forces and prison officials continued to beat and otherwise abuse detainees and prisoners, including human rights activists. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh and life threatening. The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government used internal and external exile against such persons, and it offered political prisoners the choice of exile or continued imprisonment. The Government denied political dissidents and human rights advocates due process and

subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association. It limited the distribution of foreign publications and news, reserving them for selected faithful party members, and maintained strict censorship of news and information to the public. The Government restricted some religious activities but permitted others. The Government limited the entry of religious workers to the country. The Government maintained tight restrictions on freedom of movement, including foreign travel and did not allow some citizens to leave the country. The Government was sharply and publicly antagonistic to all criticism of its human rights practices and discouraged foreign contacts with human rights activists. Violence against women, especially domestic violence, and child prostitution were problems. Racial discrimination was a problem. The Government severely restricted worker rights, including the right to form independent unions. The Government prohibits forced and bonded labor by children; however, it required children to do farm work without compensation.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, including Freedom from:

a. Arbitrary and Unlawful Deprivation of Life.—There were no reports of politically motivated killings.

There was no new information about the results of any investigation into the deaths of Leovigildo Oliva and Leonardo Horta Camacho; police reportedly shot and killed both men in 2000.

During the year, there were reports that prisoners died in jail due to lack of medical care (see Section 1.c.).

The Government still has not indemnified the survivors and the relatives of the victims for the damages caused in the Border Guard's, July 1994 sinking of the "13th of March" tugboat, which killed 41 persons, despite a 1996 recommendation by the Inter-American Commission on Human Rights (IACHR) to do so. The Government detained a number of human rights activists to prevent them from participating in a Mass in memory of the victims on the anniversary of the deaths (see Section 1.d.).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits abusive treatment of detainees and prisoners; however, members of the security forces sometimes beat and otherwise abused human rights advocates, detainees, and prisoners. There continued to be numerous reports of disproportionate police harassment of black youths (see Section 5).

On May 21, police and state security officials beat assembled mourners who refused orders to ride buses during a funeral procession for a prominent human rights activist (see Section 2.b.).

On December 10, police officers detained five human rights activists who had planned to celebrate World Human Rights Day by reading the Universal Declaration of Human Rights in a public park. A fistfight broke out between three of the officers and the activists, and the activists claimed that the officers hit them with a piece of wood; however, no one was injured seriously. The activists also claimed to have been dropped off by the police far from their homes.

The Government continued to subject persons who disagreed with it to acts of what it called repudiation. At government instigation, members of state-controlled mass organizations, fellow workers, or neighbors of intended victims are obliged to stage public protests against those who dissent from the Government's policies, shouting obscenities and often causing damage to the homes and property of those targeted; physical attacks on the victims sometimes occur. Police and state security agents often are present but take no action to prevent or end the attacks. Those who refuse to participate in these actions face disciplinary action, including loss of employment.

During the year, there were no massive acts of repudiation directed against the homes of individual human rights activists; however, there were smaller-scale acts of repudiation, known as "reuniones relampagos," or rapid repudiations. These acts are conducted by a small number of persons, usually not from the person's neighborhood, and can last up to 30 minutes. These individuals shout epithets and throw stones or other objects at the target's house. For example, on July 12, a group of persons threw stones and bottles at the home of Jose Manuel Escobedo, a member of the National Transitional Council to Democracy, and Ana Maria Espinoza, a member of Forum Feministas, in Santiago de Cuba. The crowd then went to the house of Manuel Melian, also a member of the National Transitional Council to De-

mocracy, and threw stones and bottles at his house. These actions lasted approximately 30 minutes.

On December 25, police, state security officers, and members of the RRB forcefully prevented the opening of an independent library focusing on Christian books in Florida, in the province of Camaguey. Members of the RRB beat the dissidents and prevented independent journalist Carlos Brizuela from reaching the house; the crowd also beat independent journalist Normando Hernandez Gonzalez. The dissidents were unable to open officially the independent library.

On October 4, a group of Cuban exiles filed suit in a Belgian court accusing President Castro of "false imprisonment, torture, and persecution" during his 42 years in office. The case was filed under a 1993 Belgian law that gives local Belgian courts universal jurisdiction over violations of international humanitarian law in other countries. The magistrate was expected to consider whether the case was admissible.

Prison conditions continued to be harsh and life threatening, and conditions in detention facilities also were harsh. The Government claims that prisoners have rights, such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director; however, police and prison officials often denied these rights in practice, and beat, neglected, isolated, and denied medical treatment to detainees and prisoners, including those convicted of political crimes or those who persisted in expressing their views. Human Rights Watch reported that in 1999 the Government revised the Penal Code to prohibit the use of corporal punishment on prisoners and the use of any means to humiliate prisoners or to lessen their dignity; however, the revised code failed to establish penalties for committing such acts, and they continued to occur in practice. Detainees and prisoners, both common and political, often are subjected to repeated vigorous interrogations designed to coerce them into signing incriminating statements, to force collaboration with authorities, or to intimidate victims. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in punitive isolation cells. Pretrial detainees are held separately from convicted prisoners. In Havana there are two detention centers; once sentenced, persons are transferred to a prison.

Prisoners sometimes are held in "punishment cells," which usually are located in the basement of a prison, are semi-dark all the time, have no water available in the cell, and have a hole for a toilet. No reading materials are allowed, and family visits are reduced to 10 minutes from 1 or 2 hours. There is no access to lawyers while in the punishment cell.

On January 25, a prison guard beat common prisoner Jose Ramon Capote, who had to be hospitalized. The independent press agency CPIC reported that the prison guard was not punished despite being well known for physically abusing prisoners.

Prison guards and state security officials subjected human rights and prodemocracy activists to threats of physical violence, to systematic psychological intimidation, and to detention or imprisonment in cells with common and violent criminals, sexually aggressive inmates, or state security agents posing as prisoners.

Political prisoners are required to comply with the rules for common criminals and often are punished severely if they refuse. They often are placed in punishment cells and held in isolation.

For example, in January the authorities placed Dr. Oscar Elias Biscet in a punishment cell for 5 days after he refused to wish prison guards a happy new year. In February 2000, a court had sentenced Biscet to 3 years in prison for disrespect, creating a public disturbance, and encouraging others to violate the law.

The Government regularly violated prisoners' rights by failing to provide adequate nutrition and medical attention, and a number of prisoners died during the year due to lack of medical attention. In 1997 the IACHR described the nutritional and hygienic situation in the prisons, together with the deficiencies in medical care, as "alarming." Both the IACHR and the former U.N. Special Rapporteur on Cuba, as well as other human rights monitoring organizations, have reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition.

CPIC reported that on February 18, 31-year-old common prisoner Fernandez Rodriguez died of diabetes. According to his mother, Rodriguez was taken to a local hospital but was returned to prison after 3 days, where he subsequently died.

In early April, Guillermo Alberto Alea Acosta, a 34-year-old common prisoner in the prison Kilo Cinco y Medio in Pinar del Rio, died due to lack of medical attention. The independent press agency UPECI reported that Alea was taken to a hospital for heart problems but for unknown reasons was not admitted; he died 24 hours later.

On April 23, Damaso Aquino del Pino died in the Canaleta prison in Ciego de Avila. Aquino was sentenced to prison in 1993 for alleged acts of sabotage. The independent press agency AIDH stated that he reportedly died from lack of medical treatment for diabetes, including a lack of a special diet.

On May 20, political prisoner Marcelo Diosdado Amelo Rodriguez died in a Santiago de Cuba hospital from circulatory problems. Diosdado Amelo reportedly had requested medical assistance the day before, but only was taken to the hospital at dawn; he died while being treated. Diosdado Amelo was in prison for 8 years for "rebellion." While on conditional liberty in 2000, he was jailed again and received a 3-year sentence for "disobedience" ("desacato") for attempting to enter Hotel Casa Granda in Santiago de Cuba. In 2000 there were reports that Diosdado Amelo was not receiving medicine for hypertension and circulatory problems. The authorities prevented human rights activists from participating in the burial of Diosdado Amelo (see Section 2.b.).

In early April, Berta Antunez, the sister of political prisoner Jorge Louis Garcia Perez Antunez, reported that her brother had initiated a hunger strike to protest the lack of medical attention he required in the Sancti Spiritus prison. At the time, he was spitting blood because of a nodule on his lung. Six political prisoners—founding members of the Pedro Luis Boitel Amnesty Commission for Political Prisoners—in the Valle Grande prison went on a sympathy hunger strike, including Douglas Faxe Rosabal, Lazaro Constantin Duran, Liuba Salas Garcia, Hector La Roque Rego, Juan Carlos Perez, and Miguel Lopez Santos. On April 27, human rights activists from a number of organizations initiated a fast to demand medical treatment for Perez Antunez. He later was taken to a military hospital for treatment, and was held in Combinado del Este prison in Havana at year's end.

Vladimiro Roca Antunez, a member of the Internal Dissidents Working Group, remained in prison at year's end. Prison officials denied Roca prison furloughs over weekends, which were granted to the three other members of the group before their release in May 2000 (see Section 1.e.). Roca complained of harassment from prison guards and lack of medical attention. He suffered from bronchiectasis as a result of smoking. On April 12, UPECI reported that Roca's wife, Magaly de Armas, complained about her husband's harassment by prison guards and lack of common courtesy towards him. She noted that conditions inside the prison, such as high humidity and long hours of confinement in a cell with only 1 hour outside daily, were responsible for his continued lung problems.

On July 6, Maria Esther Valdes Suarez, wife of imprisoned labor leader Jose Orlando Gonzalez Bridon who was convicted in June, told an independent journalist that her husband was not receiving medical treatment for high blood pressure (see Section 1.e.). Valdes reported that he was hemorrhaging blood from the nose.

On January 17, the authorities released independent journalist Jesus Joel Diaz Hernandez from prison without explanation (see Section 1.e.). In July 2000, Diaz Hernandez's family smuggled a urine sample out of prison that revealed that the journalist had hepatitis. Prison officials repeatedly failed to provide proper medical treatment to Diaz Hernandez.

Prison officials regularly denied prisoners other rights, such as the right to correspondence, and continued to confiscate medications and food brought by family members for political prisoners. Some prison directors routinely denied religious workers access to detainees and prisoners. Reading materials, including Bibles, are not allowed in punishment cells.

In March Ana Aquillilla, wife of 47-year-old Francisco Chaviano Gonzalez, complained that her husband remained confined with common prisoners, and that for more than 1 year he was not allowed outside the prison for recreation. Chaviano is the former president of the National Council for Civil Rights in Cuba and received a 15-year prison sentence in 1994 on charges of espionage and disrespect.

On April 14, the correspondence that Rafael Perera Gomez gave to his wife was confiscated as she was leaving after a prison visit. One of the letters reportedly was for Elizardo Sanchez, president of the Cuban Commission for Human Rights and National Reconciliation.

In late June, Eddy Alfredo Mena Gonzalez started a hunger strike to protest the decision of prison authorities not to allow his family to visit him in August. Mena Gonzalez was the provincial coordinator of the Movement of Young Cubans for Democracy. In 2000 he had received a 5-year prison sentence for allegedly promoting civil disobedience. Nestor Rodriguez Lobaina, the president of the organization, received a 6-year sentence for allegedly causing a public disturbance and disrespect. On August 20, Rodriguez Lobaina was beaten severely by a fellow inmate, resulting in hospitalization for a broken jaw. There were no guards present when Rodriguez Lobaina was beaten; however, human rights activists believe that the attack was inspired by state security.

On August 14, prison authorities informed Yesenia Rodriguez Aguilar, the wife of Randy Cabrera Mayor, that she could not visit him because “he is a counterrevolutionary.” Cabrera is serving a 16-year prison term for attempting to leave the country illegally and for having fled prison a number of times; Cabrera’s previous imprisonment was due to his refusal to serve in the army.

There are separate prison facilities for women and for minors. Conditions of these prisons, especially for women, do not take into account the special needs of women. Human rights activists believe that conditions are poor.

The Government does not permit independent monitoring of prison conditions by international or national human rights monitoring groups. The Government has refused to allow prison visits by the International Committee of the Red Cross (ICRC) since 1989 and continued to refuse requests to renew such visits. On July 18, the Cuban Commission for Human Rights and National Reconciliation (CCHRNC), an illegal nongovernmental organization (NGO), appealed to the Government to create a national commission with representatives from the Cuban Red Cross, the Ministry of Public Health, and different churches, to inspect the prisons and recommend changes to the existing situation. At year’s end, the CCHRNC had not received a response from the Government.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention continued to be problems, and they remained the Government’s most effective tactics for harassing opponents. The Law of Penal Procedures requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest. It also requires the authorities to provide suspects with access to a lawyer within 7 days of arrest. However, the Constitution states that all legally recognized civil liberties can be denied to anyone who actively opposes the decision of the Cuban people to build socialism. The authorities routinely invoked this sweeping authority to deny due process to those detained on purported state security grounds.

The authorities routinely engaged in arbitrary arrest and detention of human rights advocates, subjecting them to interrogations, threats, and degrading treatment and unsanitary conditions for hours or days at a time. The CCHRNC reported an increase in the number of short-term detentions during the year. Members of the Human Rights Party of Cuba affiliated with the Andrei Zajarov Foundation (PPDHC) in the municipalities of Guane and Sandino in the province of Pinar del Rio claimed that they were subjected to 455 repressive actions by state security personnel during 2000. On January 11, UPECI reported that of these 455 actions, 93 activists received official citations to appear at police stations (“actas policiales”) from local police. At the end of 2000, Amnesty International recognized the increase of arrests and harassment of dissidents, particularly around the December anniversary of the Universal Declaration of Human Rights, when the authorities arrested approximately 200 persons to prevent them from participating in a celebration of that anniversary. Human rights activists characterized this escalation as the worst in a decade. The authorities continued to detain human rights activists and independent journalists for short periods, often to prevent them from attending or participating in events related to human rights issues (see Sections 2.a. and 2.b.). The authorities also placed such activists under house arrest for short periods for similar reasons.

On January 12, state security officials arrested and detained two Czech citizens—parliamentary deputy and former Finance Minister Ivan Pilip, and former student leader Jan Bubenik—after they met with prodemocracy activists. They were charged with “acting against the country’s security” and inciting rebellion, which carries charges of up to 20 years’ imprisonment. Following international pressure, on February 5, the authorities released them without trial after they signed a statement saying that they unwittingly had violated the law and apologized for their actions. Several citizens who had contact with the two men were detained and questioned (see Sections 1.f. and 2.a.).

On January 16, Juan Carlos Gonzalez Leyva, president of the Cuban Foundation for Human Rights (FCDH), was intercepted by four men in the bus station in Sancti Spiritus. Gonzalez, who is blind, was on his way to attend a meeting of dissidents. The four men drove out of town and left him in a sugar cane field approximately 25 miles away. These men replaced his walking stick with a sugar cane stalk and took all his papers from his backpack and replaced it with stones. Farmers heard Gonzalez’s appeal for help and drove him to the road where someone helped him back to Sancti Spiritus. Gonzalez was detained again in February to prevent a meeting of the FCDH (see Section 2.b.).

On February 23, Elizardo Sanchez Santa Cruz Pacheco, president of the CCHRNC, was detained for 2 hours at a local police station. In an interview with a state security official, Sanchez was told that his detention was a warning to desist

from providing support to dissident organizations and distributing financial support to families of political prisoners. Sanchez believed that this might be related to his attendance at a February 10 ceremony in which an environmental organization, Naturpaz, issued diplomas to a group of students who successfully completed a course on the environment. Sanchez also speculated that his activities in support of Project Varela sponsored by Oswaldo Paya Sardinias of the Christian Liberation Movement could be another reason for his detention (see Section 4).

On September 3, two persons were detained and released the same day at the first national conference of the Confederation of Independent Workers (see Section 6.a.).

On September 28, Carlos Alberto Dominguez, one of the organizers of an impromptu march in honor of the Virgin of Charity, was detained briefly in his home and taken to the nearest police station; he was released without charge (see Section 2.c.).

State security police used detentions and warnings to prevent organizations around the island from performing any actions in remembrance of the four pilots killed in February 1996 by Cuban military aircraft. Police prevented some dissidents from leaving their homes. Aida Valdes Santana, president of the National Coordination of Prisoners and Former Political Prisoners was told not to leave her house and not to conduct commemorative activities. The authorities detained others, including Roger Morales Rey, Yunier Iglesias Silva, and Jesus Jersen Garces, who were intercepted as they proceeded to the seashore in Puerto Padre.

On March 8, state security officials detained a number of persons when they arrived at the monthly meeting place of the FCDH in Cuba. Officials told others, such as independent journalist Pablo Pacheco Avila, Marcelo Tier Perez of the Democratic Solidarity Party, and Jose Carlos Morgado Hernandez of the Foundation, to stay in their homes.

The independent press agency Agencia de Prensa Libre Oriental (APLO) reported that on March 29, state security officials detained independent journalist Juan Carlos Garcell in Sagua de Tanamo and transported him to a house on the outskirts of Holguin where he was questioned about his activities. Later in the afternoon, he was freed and had to find his way home. Garcell referred to this incident as "an act of kidnaping."

On May 20, state security police prevented a number of organizations from celebrating the 99th anniversary of the country's independence. (May 20 was the prerevolution independence holiday, which President Castro eliminated.) Members of the Movement of Fraternal Brothers for Dignity and the Cuban Orthodox Party were kept away from an area in Havana known as "La Punta," near the entrance to Havana Bay. The authorities briefly detained Nelson Aguiar, president of the Cuban Orthodox Party.

As in previous years, on July 13, police prevented activists from commemorating the 1994 sinking of the "13th of March" tugboat (see Section 1.a.). Beginning on July 12, police detained activists in a number of provinces and ordered others to remain in their homes on July 13. The authorities told dissidents that if they did not obey they would be prosecuted for illegal assembly and distribution of enemy propaganda or for incitement to rebellion. Planned actions in Havana and other provinces did not take place because of state security activities. A planned march in Old Havana was disrupted when organizers were detained a few days before the event.

In December 2000, the authorities detained an estimated 200 persons, including some who were detained on December 4, 2000, at public religious celebrations in honor of Santa Barbara. Most of the detainees were released after a short period and were not charged. Two of those arrested were tried and convicted of "contempt for authority" (see Section 1.e.). Orlando Fundora and Leonardo Bruzon were released on January 16 and February 1 respectively.

In December 2000, authorities arrested Maritza Lugo Fernandez, vice president of the Democratic November 30 Party; she was released without charge in May.

The authorities prevented a number of persons from attending trials during the year (see Section 1.e.). For example, in May activists Carlos Alberto Dominguez and Nelson Vazquez Obregon were intercepted on their way to the trial of Jose Orlando Gonzalez Bridon and were transported to another part of Havana far from the court (see Section 1.e.). In July police detained more than 30 opposition members who attempted to attend the trial of Belkis Barzaga Lugo and Hector Novo and transported them outside Havana by bus (see Section 1.e.).

The authorities sometimes detained journalists in order to question them about contacts with foreigners or to prevent them from covering sensitive issues or criticizing the Government (see Section 2.a.).

Time in detention before trial counted toward time served if convicted. Bail was available, and usually was low and more equivalent to a fine.

The Penal Code includes the concept of "dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political reeducation. Government authorities regularly threatened prosecution under this provision. Both the U.N. Commission on Human Rights (UNCHR) and the IACHR have criticized this concept for its subjectivity, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. According to the IACHR, the so-called special inclination to commit crimes referred to in the Criminal Code amounts to a subjective criterion used by the Government to justify violations of individual freedoms and the due process of persons whose sole crime has been an inclination to hold a view different from the official view.

The Government also used exile as a tool for controlling and eliminating the internal opposition. Amnesty International has noted that the Government detains human rights activists repeatedly for short periods and threatens them with imprisonment unless they give up their activities or leave the country. The Government used these incremental aggressive tactics to compel independent journalists Maria de los Angeles Gonzales and Luis Alberto Rivera to leave the country on May 10 and on July 31 respectively.

The Government also has pressured imprisoned human rights activists and political prisoners to apply for emigration and regularly conditioned their release on acceptance of exile. Human Rights Watch observed that the Government routinely invokes forced exile as a condition for prisoner releases and also pressures activists to leave the country to escape future prosecution. Amnesty International has expressed particular concern about the Government's practice of threatening to charge, try, and imprison human rights advocates and independent journalists prior to arrest or sentencing if they do not leave the country. According to Amnesty International, this practice "effectively prevents those concerned from being able to act in public life in their own country."

e. Denial of Fair Public Trial.—The Constitution provides for independent courts; however, it explicitly subordinates the courts to the ANPP and the Council of State, which is headed by President Castro. The ANPP and its lower level counterparts choose all judges. The subordination of the courts to the Communist Party, which the Constitution designates as the superior directive force of society and the State, further compromises the judiciary's independence. The courts undermined the right to a fair trial by restricting the right to a defense and often failed to observe the few due process rights available to defendants.

Civilian courts exist at the municipal, provincial, and supreme court levels. Panels composed of a mix of professionally certified and lay judges preside over them. Military tribunals assume jurisdiction for certain counterrevolutionary cases and are governed by a special law. The military tribunals process civilians if a member of the military was involved with civilians in a crime. There is a right to appeal, access to counsel, and the charges are known to the defendant.

The law and trial practices do not meet international standards for fair public trials. Almost all cases are tried in less than 1 day; there are no jury trials. While most trials are public, trials are closed when there are alleged violations of state security. Prosecutors may introduce testimony from a CDR member about the revolutionary background of a defendant, which may contribute to either a longer or shorter sentence. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases such as those involving maximum prison terms or the death penalty. Appeals in capital cases are automatic. The Council of State ultimately must affirm capital punishment.

Criteria for presenting evidence, especially in cases involving human rights advocates, are arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, is the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer (see Section 1.c.). The authorities regularly denied defendants access to their lawyers until the day of the trial. Several dissidents who have served prison terms reported that they were tried and sentenced without counsel and were not allowed to speak on their own behalf.

The law provides the accused with the right to an attorney, but the control that the Government exerts over the livelihood of members of the state-controlled lawyers' collectives compromises their ability to represent clients, especially when they defend persons accused of state security crimes. Attorneys have reported reluctance to defend those charged in political cases due to fear of jeopardizing their own careers.

After being transferred to three different prisons within 1 month for refusing to work, Rene Montes de Oca Martija escaped from prison on April 20. On May 8, he was recaptured in the house of Yani Valdes Mendez, who also was detained. Montes de Oca is the secretary general of the Human Rights Party of Cuba affiliated with the Andrei Sajarov Foundation. On December 19, 2000, Montes de Oca Martija had received a 21-month sentence for threatening his wife Esther Valdes German, an accusation that she had denied. On November 29, he again was tried for escaping from prison, and received an additional 1 year and 4 months imprisonment to his original sentence, for a total of 4 years and 5 months.

On May 9, the Popular Municipal Court in Central Havana informed 58-year-old Isabel del Pino Sotolongo, president of the Humanitarian Association of the Followers of Christ King, that her trial was suspended for the third time. A neighbor had accused del Pino of threatening to kill her, and police initiated legal proceedings against her on the basis of this accusation. Opposition groups rejected this accusation because following a 1999 attack, del Pino's state of health had deteriorated to the point where she physically would be incapable of committing such an act. Del Pino was not detained because of her poor health. After the second suspension of her trial on April 23, del Pino initiated a hunger strike to protest the court's action and prolonged deliberation. Religious leaders and human rights activists convinced her to terminate her hunger strike after 72 hours because of her state of health.

On June 8, a civilian court sentenced Jose Orlando Gonzalez Bridon, the 50-year-old secretary general of the Confederation of Democratic Workers of Cuba, to 2 years in jail, which an appeals court reduced to 1 year, for "diffusion of false information harmful to international peace." Gonzalez Bridon, who also is an independent journalist and was detained in late 2000, was accused of falsely incriminating local police for the killing of Yohana Gonzalez Herrera, a human rights activist, by her husband in November 2000. Gonzalez Bridon's trial had been postponed repeatedly, resulting in a lengthy pretrial detention. On May 23, police told various human rights activists not to attend the trial. Despite the frequent changing of the date of the trial and warnings by police, a number of activists arrived at the court, but the authorities allowed only family members to attend the trial. State security officials intercepted activists Carlos Alberto Dominguez and Nelson Vazquez Obregon on their way to the court and transported them to another part of Havana far from the court. Initially Gonzalez Bridon also was charged with "spreading false information," but the prosecutor could not prove this charge. In July Bridon reportedly was refused medical treatment (see Section 1.c.). He was released on November 11 after serving his sentence.

On July 11, the trial of Belkis Barzaga Lugo and Hector Novo Suarez, both members of the 30th of November Democratic Party, took place in Santiago de las Vegas, on the outskirts of Havana City. Both were accused of causing public disorder, and Barzaga Lugo also was charged with resisting arrest. Police detained more than 30 opposition members who arrived to attend the trial (see Section 1.d.). Barzaga Lugo and Novo Suarez were arrested on December 17, 2000, for carrying a sign requesting freedom for political prisoners during a church service in honor of St. Lazarus. Lugo was released on December 16 after serving a 1-year sentence, and Suarez was released on March 31 after paying a fine of \$45 (900 pesos).

In December 2000, courts convicted Angel Moya Acosta and Julia Cecilia Delgado of "contempt for authority" and sentenced each of them to 1 year in prison. Both trials were closed to the public. The two were among 200 persons detained (see Section 1.d.). Both were released by year's end.

On January 3, Miguel Sanchez Valiente, a former lieutenant colonel in the army who became an activist, was released from prison without explanation. Sanchez was arrested in August 1992 and sentenced to 10 years in prison for espionage.

On January 17, Jesus Joel Diaz Hernandez was released from prison without explanation. Diaz Hernandez, an independent journalist, had been serving a 4-year sentence beginning in 1999 for the crime of "dangerousness."

Egberto Angel Escobedo Morales was arrested in 1995, and in July 2000, was tried again for obstruction of police, causing disorder in the prison, and disrespect of government officials. At year's end, there were no reports that he had been sentenced.

Vladimiro Roca Antunez of the Internal Dissident Working Group remained in prison at year's end after a 1997 conviction for acts against the security of the state in relation to the crime of sedition after the group peacefully expressed their disagreement with the Government (see Section 1.d.). Three other members received conditional releases in 2000.

Human rights monitoring groups inside the country estimate the number of political prisoners to be between 249 and 300 persons. In July the CCHRNC reported that there were an estimated 249 political prisoners in the country; in July 2000,

the CCHRNC reported 314 political prisoners. The CCHRNC noted that since the Government refuses to publish the number of prisoners in the country, its figures are based on information obtained from family members of prisoners. A spokesperson for the CCHRNC attributed the decrease in political prisoners to the fact that the Government has changed its tactics from prison sentences to increased detentions (see Section 1.d.). The authorities have imprisoned persons on charges such as disseminating enemy propaganda, illicit association, contempt for the authorities (usually for criticizing President Castro), clandestine printing, or the broad charge of rebellion, which often is brought against advocates of peaceful democratic change. In July another illegal NGO, the National Coordinator of Prisoners and Former Political Prisoners, listed 262 political prisoners. This NGO also reported that an additional 179 prisoners were convicted over a 1 year period of piracy (stealing a boat belonging to the Government in an attempt to leave the country), and illegal attempt to leave the country (see Section 2.d.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the Constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled mass organizations, such as the CDR's, remained one of the most pervasive and repressive features of daily life. The State has assumed the right to interfere in the lives of citizens, even those who do not oppose the Government and its practices actively. The authorities utilized a wide range of social controls. The mass organizations' ostensible purpose is to improve the citizenry, but in fact their goal is to discover and discourage nonconformity. Citizen participation in these mass organizations has declined; the economic crisis both has reduced the Government's ability to provide material incentives for their participation and has forced many persons to engage in black market activities, which the mass organizations are supposed to report to the authorities.

The Interior Ministry employed an intricate system of informants and block committees (the CDR's) to monitor and control public opinion. While less capable than in the past, CDR's continued to report on suspicious activity, including conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the Government and the revolution.

The Government controls all access to the Internet, and all electronic mail messages are subject to censorship. The Interior Ministry's Department of State Security often reads international correspondence and monitors overseas telephone calls and conversations with foreigners. The Government also monitors domestic phone calls and correspondence.

On January 18, Yolaida Granda Gonzalez, the 21-year-old daughter of independent journalist Maria de los Angeles Gonzalez Amaro, was dismissed from her job as an accountant in a yogurt factory (see Section 1.d.). A few days before her expulsion, two state security agents met with the factory's management. In 2000 Granda Gonzalez was dismissed from the University of Havana because of her mother's activities.

On February 3, the independent press agency Lux InfoPress reported that two workers involved in independent labor movements were expelled from an agroindustrial plant for "lack of confidence" (see Section 6.a.).

Family members of Roberto Valdivia Hernandez, whose name was found in the electronic agenda of two Czech citizens, Ivan Pilip and Jan Bubenik, whom state security officials arrested in January, were visited frequently by state security (see Section 1.d.). Valdivia's mother was told that her son would spend 20 years in jail. Valdivia is a member of the FCDH in the province of Ciego de Avila.

On May 10, the 14-year-old son of Mayra Maria Enrique Rodriguez, a member of the Movement for Democracy, was called into the local police station's Office of Minors. The authorities wanted to know why the 14-year-old was not attending political rallies, including the May 1 march in honor of workers.

Nivaldo Aguila and Lorenzo Montelier were dismissed from their jobs in a sugar mill because they are sons of former political prisoners who were involved in the anti-Castro guerrilla war in the Escambray Mountains in the early 1960's.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana (see Section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for citizens' freedoms of speech and press insofar as they "conform to the aims of socialist society." The Government does not allow criticism of the revolution or its leaders. Laws against antigovernment propaganda, graffiti, and disrespect of officials carry penalties of between 3 months and 1 year in prison. If President Castro or members of the ANPP or Council of State are the objects of criticism, the sentence can be extended to 3

years. Charges of disseminating enemy propaganda, which includes merely expressing opinions at odds with those of the Government, can bring sentences of up to 14 years. In the Government's view, such materials as the Universal Declaration of Human Rights, international reports of human rights violations, and mainstream foreign newspapers and magazines constitute enemy propaganda. Local CDR's inhibited freedom of speech by monitoring and reporting dissent or criticism. Police and state security officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private as a means of intimidation and control.

On June 29, a group of medical professionals issued a document entitled Statement ("Manifiesto") 2001 that demanded a new constitution providing for the rights and liberties of everyone while preserving the independence of the nation; a greater economic opening to provide incentives to small- and medium-sized companies while preserving free access to education and health care; and a general amnesty for political prisoners. Some of these medical professionals were granted immigrant status by other countries, but the Ministry of Health previously had refused to grant them permission to secure exit permits (see Section 2.d.). On July 5, an official threatened to terminate Dr. Luis Milan Fernandez's employment if he did not reveal the author of Statement 2001.

The Constitution states that print and electronic media are state property and cannot become private property in any case. The Communist Party controls all media except for a few small church-run publications. Even the church-run publications, denied access to mass printing equipment, were subject to governmental pressure. Vitral magazine continued to publish during the year.

Citizens do not have the right to receive publications from abroad, although news stands in hotels for foreigners and certain hard currency stores sell foreign newspapers and magazines. The Government continued to jam the transmission of Radio Marti and Television Marti. Radio Marti broadcasts at times overcame the jamming attempts on short-wave bands, but its medium-wave transmissions were blocked completely in Havana. Security agents subjected dissidents, foreign diplomats, and journalists to harassment and surveillance, including electronic surveillance.

All legal media must operate under party guidelines and reflect government views. The Government attempts to shape media coverage to such a degree that it not only continued to exert pressure on domestic journalists but also steadily pressured groups normally outside the official realm of control, such as visiting international correspondents.

The 1999 Law to Protect National Independence and the Economy outlaws a broad range of activities as undermining state security and toughens penalties for criminal activity. Under the law, anyone caught possessing or disseminating literature deemed subversive, or supplying information that could be used by U.S. authorities in the application of U.S. legislation, is subject to fines and to prison terms of 7 to 20 years. While many activities between citizens and foreigners possibly could fall within the purview of this law, it appeared to be aimed primarily at independent journalists; however, no one has been tried under this law.

This law increased the penalties and broadened the definitions of activities covered by the 1996 Cuban Dignity and Sovereignty Act, which already proscribed citizens from providing to or seeking from any representatives of the U.S. Government information that might be used directly or indirectly in the application of U.S. legislation against the Government. This includes accepting or distributing publications, documents, or other material of any origin that the authorities might interpret as facilitating implementation of such legislation. In 1999 National Assembly President Ricardo Alarcon told foreign correspondents that under the new law, even reporters working for accredited foreign media could be sentenced to up to 20 years in prison if the information they publish is deemed to serve U.S. interests.

The Government continued to threaten independent journalists, either anonymously or openly, with arrests and convictions based on the 1999 law. Some journalists have been threatened repeatedly since the law took effect. Independent journalists noted that the law's very existence had some effect on their activities and increased self-censorship, and some noted that it is the Government's most effective tool to harass members of the independent press.

The Government continued to subject independent journalists to internal travel bans, arbitrary and periodic detentions (overnight or longer), harassment of family and friends; seizures of computers, office, and photographic equipment; and repeated threats of prolonged imprisonment (see Sections 1.d., 1.f., and 2.d.). Independent journalists in Havana reported that threatening phone calls and harassment of family members continued during the year. According to independent journalist Raul Rivero, more than 55 independent journalists experienced varying degrees of harassment, and certain individuals appeared to have been singled out. Dozens of report-

ers were detained repeatedly. The authorities also placed journalists under house arrest to prevent them from reporting on conferences sponsored by human rights activists, human rights events, and court cases against activists. Independent journalists reported that detentions, threats, and harassment are more severe in the provinces than in the capital. Amnesty International, Human Rights Watch, the Inter-American Press Association (IAPA), "Rapporteurs Sans Frontieres" (RSF), and the Committee to Protect Journalists repeatedly called international attention to the Government's continued practice of detaining independent journalists and others simply for exercising their right to free speech (see Section 1.d.).

Family members have lost their jobs because they refuse to criticize or inform on these so-called counterrevolutionaries (see Section 1.f.). Acts of intimidation have been reported less frequently since 1999; however, the number of acts of intimidation appeared to increase during the year. In addition police more often have tried to prevent independent journalists from covering so-called sensitive events.

In January state security officials summoned Antonio Femenias of Agencia Patria for questioning and subsequently accused him of receiving money or materials from two Czech citizens, Ivan Pilip and Jan Bubenik, who were arrested in January (see Section 1.d.). No further actions were taken against Femenias by year's end.

In February Ricardo Gonzalez Alfonso, a correspondent for RSF, was detained for 4 hours and interrogated about interviews that he gave to a Miami-based radio station. His house subsequently was placed under police surveillance.

In February Edel Garcia, director of the Central Norte del Paiz (CNP) press agency was detained for 12 hours to prevent him from participating in the "Actos del 24 de Febrero" in commemoration of two "Brothers to the Rescue" planes that were shot down by Cuban military aircraft in international airspace in 1996 (see Section 1.d.). Garcia was released in the countryside, 60 miles from his home in Havana. In June the authorities detained Edel Garcia and Dorca Cespedes of Habanapress at the "Aniversario del Tamarindo" in Havana and released them outside of the city. Students taunted Garcia's teen-age daughter because of her father's activities as an independent journalist. At year's end, Garcia was not in detention, and his trial on charges of collaborating with the enemy, providing information to Radio Marti, and conspiracy to commit crimes and espionage remained pending.

In March state security officials in Moa detained Juan Carlos Garcel of the APLO as he attended a civic demonstration. He then was driven to Holguin, 95 miles from Moa, and detained for 7 hours at a state security house where government officials interrogated him. He then was released and forced to hitchhike for 5 hours in order to return to his home.

On March 31, state security detained independent journalist Luis Alberto Rivera Leyva of the APLO as he was preparing to report on the forced removal of individuals from their home. He was forced to sit in a patrol car until the incident was finished. State security also instructed businesses in his hometown not to permit him to use their telephones.

In April the police placed RSF correspondent Ricardo Gonzalez Alfonso under house arrest after his former wife filed a complaint alleging that he had threatened her. It is highly unusual for police to impose house arrest in a domestic dispute. His former wife dropped the charge, and he no longer was under house arrest at year's end.

In May Ohalis Victores of Cuba-Voz was threatened by state security that if she did not "behave herself" and stop her independent press activities, she never would be issued an exit permit.

In July a state security official accosted Jorge Olivera Castillo of Habanapress in the street and threatened that disciplinary action would be taken against him if he continued with his independent press activities.

In August state security agents interrogated Jesus Alvarez del Castillo of the Cubapress agency and threatened him with imprisonment for his independent press activities.

In September police stopped Juan Carlos Martinez Nunez of the Agencia CMN of Bayamo, Granma, numerous times in the street and searched him. Police also pressured him to sign a document stating that his trips to Havana were for medical purposes only and not to conduct counterrevolutionary activities.

In September state security officials accused Manuel Antonio Brito of the Buro de Periodistas Independientes de Cuba (BPIC) of trying to provoke a war with the U.S., referring to an article he wrote about the September 11 attacks on the U.S. Brito was detained for a few hours and was not charged.

Jesus and Jadir Hernandez of Havana-Press were charged with trafficking in illegal migrants and collaboration with a foreign mission in 2000; their trial was pending at year's end.

At least five other independent journalists were denied the right to emigrate, including Ohalis Victores, Manuel Vazquez Portal, Jadir Hernandez, Oswaldo de Cespedes, and Sunset Noguera (see Section 2.d.). For example, in May Isaura Ortega of the APIC was refused an exit permit. The Government used repeated short detentions to compel two independent journalists to leave the country (see Section 1.d.).

The authorities often confiscated equipment when arresting journalists, especially photographic and recording equipment. It was possible to buy a fax machine or computer, payable in dollars; if a receipt can be produced, this equipment usually was not confiscated. Photocopiers and printers either were impossible to find on the local market or were not sold to individuals, which made them a particularly valuable commodity for journalists.

Resident foreign correspondents reported that the very high level of government pressure experienced in 2000, including official and informal complaints about articles, continued throughout the year. The Government exercised its ability to control members of the resident foreign press by requiring them to obtain a government exit permit each time they wished to leave the island. President Castro continued to criticize publicly the international press, often by name.

Distribution of information continued to be controlled tightly. Importation of foreign literature was controlled, and the public had no access to foreign magazines or newspapers. Leading members of the Government have indicated that citizens do not read foreign newspapers and magazines to obtain news because they do not speak English and that they have access to the daily televised round tables on issues with which they need to concern themselves.

The Government controls all access to the Internet, and all electronic mail messages are subject to censorship. Access to computers is limited, and the Internet only can be accessed through government-approved institutions. Email use is growing slowly as the Government incrementally allows access to more users; however, the Government generally controls its use, and only very few persons or groups have access. The Government opened a national Internet gateway to some journalists, artists, and municipal-level youth community centers, but the authorities continue to restrict the types and numbers of international sites that can be accessed.

The Government officially prohibits all diplomatic missions in Havana from printing or distributing publications, particularly newspapers and newspaper clippings, unless these publications exclusively address conditions in a mission's home country and prior government approval is received. Many missions do not accept this requirement and send materials out; however, the Government's threats to expel embassy officers who provide published materials had a chilling effect on some missions.

The Government restricts literary and academic freedoms and continued to emphasize the importance of reinforcing revolutionary ideology and discipline over any freedom of expression. The educational system teaches that the State's interests have precedence over all other commitments. Academics and other government officials were prohibited from meeting with some diplomats without prior approval from the Ministry of Foreign Affairs. The Ministry of Education required teachers to evaluate students' and their parents' ideological character, and note such evaluations in school records. These reports directly affected students' educational and career prospects. As a matter of policy, the Government demands that teaching materials for courses such as mathematics or literature have an ideological content. Government efforts to undermine dissidents included denying them advanced education and professional opportunities. President Castro has stated publicly that the universities are available only to those who share his revolutionary beliefs.

Artistic expression is less restricted. The Government encourages the cultural community to attain the highest international standards in order to sell its work overseas for hard currency. However, in 2000 the Government began implementing a program called "Broadening of Culture" that ties art, socialism, and modern "revolutionary" ideology and legends into its own vision of culture. The Government has used the government media and the schools to impose this vision on the public, particularly the youth.

b. Freedom of Peaceful Assembly and Association.—Although the Constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be "exercised against the existence and objectives of the Socialist State." The law punishes any unauthorized assembly of more than three persons, including those for private religious services in private homes, by up to 3 months in prison and a fine. The authorities selectively enforced this prohibition and often used it as a legal pretext to harass and imprison human rights advocates.

The Government's policy of selectively authorizing the Catholic Church to hold outdoor processions at specific locations on important feast days continued during the year. On September 8, the Government permitted for the fourth consecutive year a procession in connection with Masses in celebration of the feast day of Our Lady of Charity in Havana. However, on September 8, security police ordered a number of human rights activists not to attend the procession; a number of activists did participate (see Section 2.c.). There were no reports that processions were denied permits during the year.

The authorities never have approved a public meeting by a human rights group, and often detained activists to prevent them from attending meetings, demonstrations, or ceremonies (see Section 1.d.).

On January 30, state security officials prevented human rights activists from attending a proposed conference on liberalism in the home of Hector Palacio Ruiz, director of the Center of Social Studies. Elizardo Sanchez, director of the CCHRNC, estimated that state security officials told approximately 40 activists to go home.

On February 8, police prevented members of FCDH from having its regular monthly meeting. Police detained more than 20 members of the organization. The president of FCDH, Juan Carlos Gonzalez Leyva, said that he was hit in the face, that he lost his glasses (Gonzalez Leyva is blind), and was held in a painful grip. His father and brother, who are not members of the opposition, were forced into a car and released on the outskirts of the town of Ciego de Avila. Leyva's wife also was detained briefly.

On February 15, police prevented a conference on ethics in journalism in the context of a nascent civil society sponsored by the Moderate Reflection Group in the independent library Jorge Manach. The owner of the library, Ricardo Gonzalez, was detained early in the morning and released that evening.

On February 23, state security officers detained prodemocracy activists in different parts of the country to prevent them from staging activities commemorating the February 1996 shooting down of two civilian aircraft over international airspace by the air force (see Sections 1.d. and 2.a.).

On May 21, police and state security officials prevented human rights activists from participating in the burial of Marcelo Diosdado Amelo Rodriguez, who died in prison on May 20 (see Section 1.c.). The police beat and kicked human rights activists who refused to board three buses offered by state security to follow the hearse, preferring to walk behind the hearse, a tradition in Santiago de Cuba. Neighbors expressed their disapproval of police actions and attempted to stop the police from beating and kicking the dissidents. Police detained six persons before leaving the area. The hearse abruptly departed, forcing mourners to find alternate ways of transportation to the cemetery. Police only allowed immediate family members to enter the cemetery for the burial ceremony. On May 22, the six who were detained were released, and each one was fined \$88 (1,760 pesos); this included damages to the funeral vehicle. On June 5, state security officials placed a wreath on Diosdado's grave with the words "To Taino, from your brothers in Security," an allegation that the deceased had collaborated with state security forces. State security also used this similar tactic of accusing the deceased of police collaboration on September 18—the first anniversary of the death of human rights activist Jesus Yanez Pelletier. On June 21, a Mass was celebrated in the Church of St. Theresa in honor of Diosdado. Many activists and family members attended while state security remained outside. There were no reports of violence.

On July 6, police prevented members of the Popular Cuban Youth Party from seeing the film "Thirteen Days." Organizers wanted to conduct a debate on the film.

Over the weekend of August 4–5, state security officials detained opposition activists who were planning protests to coincide with the seventh anniversary of the antigovernment riot that took place in Havana on August 5, 1994.

On December 10, approximately 30 activists attended a peaceful celebration of the anniversary of the Declaration of Human Rights. The activists reported that plainclothes police checked the documents of those arriving and prevented some persons from attending.

The Government organized marches on May Day and has a rally, "Tribuna Abierta," every Saturday in a different municipality in the country. There is both radio and television coverage of the rally.

The Government generally denies citizens the freedom of association. The Penal Code specifically outlaws illegal or unrecognized groups. The Minister of Justice, in consultation with the Interior Ministry, decides whether to give organizations legal recognition. The authorities never have approved the existence of a human rights group. However, there are a number of professional associations that operate as NGO's without legal recognition, including the Association of Independent Teachers,

the Association of Independent Lawyers (Agramonte), the Association of Independent Architects and Engineers, and several independent journalist organizations.

Recognized churches (see Section 2.c.), the Roman Catholic humanitarian organization Caritas, the Masonic Lodge, small human rights groups, and a number of nascent fraternal or professional organizations are the only associations outside the control or influence of the State, the Communist Party, and their mass organizations. With the exception of the Masons, who have been established in the country for more than a century, the authorities continued to ignore those groups' applications for legal recognition, thereby subjecting members to potential charges of illegal association. All other legally recognized NGO's are affiliated at least nominally with or controlled by the Government.

c. Freedom of Religion.—The Constitution recognizes the right of citizens to profess and practice any religious belief within the framework of respect for the law; however, in law and in practice, the Government continued to restrict freedom of religion. In general unregistered religious groups continued to experience various degrees of official interference, harassment, and repression. The Government's policy of permitting apolitical religious activity to take place in government-approved sites remained unchanged; however, citizens worshiping in officially sanctioned churches often were subjected to surveillance by state security forces, and the Government's efforts to maintain a strong degree of control over religion continued.

The Constitution provides for the separation of church and state. In 1991 the Government allowed religious adherents to join the Communist Party. In 1992 it amended the Constitution to prohibit religious discrimination and to remove references to "scientific materialism," (i.e. atheism) as the basis for the State. Members of the armed forces do not attend religious services in their uniform, probably to avoid possible reprimand by superiors.

The Government requires churches and other religious groups to register with the provincial registry of associations within the Ministry of the Interior to obtain official recognition. In practice the Government refuses to recognize new denominations; however, the Government has tolerated some new religions on the island, such as the Baha'i Faith. Unregistered religious groups are subject to official interference, harassment, and repression. The Government, with occasional exceptions, prohibited the construction of new churches, forcing many growing congregations to violate the law and meet in private homes. Government harassment of private houses of worship continued, with evangelical denominations reporting evictions from houses used for these purposes. According to the Cuban Council of Churches (CCC) officials, most of the private houses of worship that the Government closed were unregistered, making them technically illegal. In addition CCC Pentecostal members have complained about the preaching activities of foreign missionaries that led some of their members to establish new denominations without obtaining the required permits. Because of these complaints by the Pentecostals, the CCC formally has requested overseas member church organizations to assist them in dissuading foreign missionaries from establishing Pentecostal churches.

The Government's main interaction with religious denominations is through the Office of Religious Affairs of the Communist Party. The Ministry of Interior engaged in active efforts to control and monitor the country's religious institutions, including through surveillance, infiltration, and harassment of religious professionals and practitioners.

In 1998 following Pope John Paul II's visit, the country's Roman Catholic bishops called on the Government to recognize the Catholic Church's role in civil society and the family, as well as in the temporal areas of work, the economy, the arts, and the scientific and technical worlds. The Government continued to limit the Catholic Church's access to the media and refused to allow the Catholic Church to have a legal independent printing capability. It maintained a prohibition against the establishment of religious-affiliated schools.

In September local government authorities, for the fourth consecutive year, allowed the Catholic Church to hold an outdoor procession to mark the feast day of Our Lady of Charity in Havana (see Section 2.b.). Although visibly present, state security personnel did not harass any participants or observers as they did in 1998. However, prior to the event, security police ordered a number of human rights activists not to attend the procession. On September 24, thousands of persons attended the various Masses held throughout the day in honor of the Virgin of Charity, the patron saint of the imprisoned. The independent press agency Cuba-Verdad reported that after one of the afternoon Masses, a number of human rights activists led a peaceful march. Although present, state security agents did not intervene. However, on September 28, one of the organizers of the impromptu march, Carlos Alberto Dominguez, was detained briefly in his home and taken to the nearest police station; he was released without charge.

In 1998 the Government announced in a Politburo declaration that henceforth citizens would be allowed to celebrate Christmas as an official holiday. (The holiday had been cancelled, ostensibly to spur the sugar harvest, in 1969 and restored in 1997 as part of the preparations for the Pope's 1998 visit.) However, despite the Government's decision to allow citizens to celebrate Christmas as an official holiday, it also maintained a 1995 decree prohibiting nativity scenes in public buildings. The Christmas procession took place in December.

On March 10, members of the Province of Havana Communist Party prepared a confidential document criticizing recent inroads of the church into society. The document provided suggestions to the Party on how to supercede the pastoral work of the Church, which included providing computer classes, attending to children with Down's Syndrome, distributing medicines in cooperation with doctors who provide written prescriptions for church medical dispensaries, and charitable assistance to the elderly. The document allegedly suggested that the Party take corrective measures, for example, by controlling the distribution of medicines. Cardinal Jaime Ortega Alamino characterized the Party document as "antireligious" and a throw-back to the pre-1992 constitution. The Cardinal again suggested that to overcome these misconceptions the Church and State should engage in a "profound discussion" on the meaning of religion in society. Following the publication of the article, Communist Party leaders in Havana reportedly apologized to the Catholic Church hierarchy.

The Government allowed two new foreign priests from Paraguay, two priests from Spain, and another religious person to enter the country to replace other priests whose visas had expired. During the year, 10 visas were issued to other religious persons, including nuns. The applications of many other priests and religious workers remained pending at year's end.

Religious officials are allowed to visit prisoners, but prison officials sometimes refused visits to certain political prisoners. In order for a religious visit to take place, the prisoner must submit a written request, and the prison director must approve it. Elias Biscet was visited by a Catholic priest twice during the year.

Education is secular, and no religious educational institutions are allowed. There were no reports that parents were restricted from teaching religion to their children.

The Government continued to enforce a resolution that prevented any national or joint enterprise (except those with specific authorization) from selling computers, fax machines, photocopiers, or other equipment to any church at other than official—and exorbitant—retail prices. There was no restriction on the importation of religious literature and symbols if imported by a registered religious group in accordance with the proper importing procedures. In punishment cells, prisoners were denied access to reading materials, including Bibles (see Section 1.c.).

In the past several years, the Government has relaxed restrictions on some religious denominations, including Seventh-Day Adventists and Jehovah's Witnesses. Jehovah's Witnesses, once considered "active religious enemies of the revolution," were allowed to proselytize quietly door-to-door and generally were not subject to overt government harassment, although there were sporadic reports of harassment by local Communist Party and government officials.

The CCC continued to broadcast a monthly 15-minute program on a national classical music radio station under the condition that the program may not include material of a political character.

In July the Government detained a number of human rights activists to prevent them from participating in a Mass in memory of the victims of the 1994 sinking of the "13th of March" tugboat (see Sections 1.a. and 1.d.). State security officials visited some priests and pastors prior to significant religious events, ostensibly to warn them that dissidents are trying to "use the Church;" however, some critics claimed that these visits were done in an effort to foster mistrust between the churches and human rights or prodemocracy activists. State security officers also regularly harassed human rights advocates who sought to attend religious services commemorating special feast days or before significant national days, sometimes entering inside churches and disrupting religious ceremonies.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Government severely restricts freedom of movement. The Government generally has not imposed legal restrictions on domestic travel; however, it limits migration to Havana, and initially restricts persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community. In the past several years, state security officials also have forbidden human rights advocates and independent journalists from traveling outside their home provinces, and the Government also has sentenced others to internal exile.

Decree 217 prohibits persons in other provinces from moving into Havana on the grounds that if internal migration is left unchecked, the city's problems regarding

housing, public transport, water, and electrical supplies will become worse; visits to the city are permissible. The Government noted in 2000 that since the decree went into effect in 1997, the number of persons migrating to Havana had decreased to approximately 17,000 persons. Police frequently check the identification of persons on the streets, and if someone from another province is found living in Havana illegally, that person is fined \$11.50 (300 pesos) and sent back home. Fines are \$38.50 (1,000 pesos) for those who reside illegally in the neighborhoods of Old Havana and Cerro. Human rights observers noted that while the decree affected migration countrywide, it targeted individuals and families, who predominantly are of African descent from the more impoverished eastern provinces.

The Government imposed some restrictions on both emigration and temporary foreign travel. The Government allows the majority of persons who qualify for immigrant or refugee status in other countries to depart; however, in certain cases the authorities delay or deny exit permits, usually without explanation. The Government denied exit permits to journalists (see Section 2.a.). Some denials involve professionals who have tried to emigrate and whom the Government subsequently banned from working in their occupational fields. The Government refused permission to others because it considered their cases sensitive for political or state security reasons. Resolution 54 denies exit permits to medical professionals until they have performed 3 to 5 years of service in their profession after requesting permission to travel abroad. This regulation normally applied to recent graduates. This regulation was not published as part of the legal provisions, and may apply to other professionals as well.

In February a group of 31 medical professionals sent a letter to the authorities protesting the Government's decision not to allow them to proceed with their legal emigration. These medical professionals were granted immigrant status by other countries, but the Ministry of Health had refused to grant them permission to secure exit permits. The doctors made the document public. The Government responded by terminating their employment, relocating them to remote and undesirable health care facilities, or ostracizing them. One of the doctors who signed the letter attempted to leave the country illegally but was caught and released 3 days later.

On June 7, eight doctors and one nurse initiated a public fast to protest the refusal of the Ministry of Health to issue them the required permission to secure exit permits; the fast remained in effect at year's end. The public fast by the doctors and nurse led to the Statement 2001 issued by a group of medical professionals (see Section 2.a.).

On March 15, immigration officials did not allow independent journalist Oswaldo de Cespedes and his family to board their flight as political refugees. De Cespedes was informed that his exit permit had been canceled. A migration official later told him that the exit permit was canceled "for interests of the state." While his family was allowed to leave at a later date, de Cespedes remained in the country at year's end.

Elizardo Sanchez Santa Cruz, president of the CCHRNC, applied for an exit permit to attend a Latin American conference on Human Rights in Mexico City. Before authorities could respond, in June Sanchez requested and received an emergency exit visa due to a death in his family. Sanchez visited a number of countries before he returned. In October Sanchez again was allowed to depart the country for a human rights conference in the Czech Republic.

In September the president of the environmental organization Naturpaz traveled to the U.S. for a visit.

The Government routinely denied exit permits to young men approaching the age of military service, and until they reached the age of 27, even when it has authorized the rest of their families to leave. However, in most of those cases approved for migration to the U.S. under the September 1, 1994, U.S.-Cuban migration agreement, the applicants eventually received exemption from obligatory service and were granted exit permits.

The Government has a policy of denying exit permission for several years to relatives of individuals who successfully migrated illegally (e.g. merchant seamen who have defected while overseas and sports figures who have defected while on tours abroad).

In June a military court sentenced Pedro Riera Escalante, a former Cuban consul and intelligence officer in Mexico City, to 6 years in prison for leaving the country illegally, using false documents, and bribing officials to allow his departure. Escalante had broken with the Government and sought political asylum in Mexico; however, in October he was deported forcibly by the Mexican authorities.

Migrants who travel to the United States must pay the Government a total of \$600 per adult and \$400 per child, plus airfare. These government fees for medical

exam, passport, and exit visa—which must be paid in dollars—are equivalent to about 5 years of a professional person's accumulated peso salary and represent a significant hardship, particularly for political refugees who usually are marginalized and have no income. In 1996 the Government agreed to allow 1,000 needy refugees to leave each year with reduced exit fees. However, after the first group of 1,000 in 1996, no further refugees were accorded reduced fees. At year's end, of the 1,001 persons pending travel, 21 approved refugees remained in the country because they were unable to pay government exit fees for themselves and their families.

The Penal Code provides for imprisonment of up to 3 years or a fine of \$15 to \$50 (300 to 1,000 pesos) for unauthorized departures by boat or raft. The office of the U.N. High Commissioner for Refugees (UNHCR) has stated that it regards any sentence of more than 1 year for simple illegal exit as harsh and excessive. Under the terms of the May 2, 1995, U.S.-Cuba Migration Accord, the Government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Base at Guantanamo, after attempting to emigrate illegally if they have not committed a separate criminal offense.

In 1994 the Government eased restrictions on visits by and repatriations of Cuban emigrants. Citizens who establish residency abroad and who are in possession of government-issued permits to reside abroad may travel to the country without visas. The Government reduced the age of persons eligible to travel abroad from 20 to 18 years and extended the period for a temporary stay abroad from 6 to 11 months. In 1995 the Government announced that emigrants who are considered not to have engaged in so-called "hostile actions" against the Government and who are not subject to criminal proceedings in their countries of residence may apply at Cuban consulates for renewable, 2-year multiple-entry travel authorizations. However, in 1999 the Government announced that it would deny entry permits for emigrants who had left the country illegally after September 1994. It remains unclear whether the Government actually was implementing such a policy.

The Constitution provides for the granting of asylum to individuals persecuted "for their ideals or struggles for democratic rights against imperialism, fascism, colonialism, and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; and for socialism and peace." However, the Government has no formal mechanism to process asylum for foreign nationals. Nonetheless the Government honors the principle of first asylum and has provided it to a small number of persons. There was no information available on its use during the year. A total of 93 persons applied for refugee status during the year, and 25 were approved; according to the UNHCR, there are 1,036 refugees in the country. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

Citizens do not have the legal right to change their government or to advocate change, and the Government retaliates systematically against those who seek peaceful political change. The Constitution proscribes any political organization other than the Communist Party. While the Constitution provides for direct election of provincial, municipal, and ANPP members, the candidates must be approved in advance by mass organizations controlled by the Government. In practice a small group of leaders, under the direction of President Castro, selects the members of the highest policy-making bodies of the Communist Party: The Politburo and the Central Committee.

The authorities tightly control the selection of candidates and all elections for government and party positions. The candidacy committees are composed of members of government-controlled mass organizations such as the Confederation of Cuban Workers (CTC) and the CDR's and are responsible for selecting candidates, whose names then are sent to municipal assemblies that select a single candidate for each regional seat in the ANPP. An opposition or independent candidate never has been allowed to run for national office.

In January 1998, the Government held national elections in which 601 candidates were approved to compete for the 601 seats in the National Assembly. According to the official state media, the candidates were voted in by more than 93 percent of the electorate. No candidates with views independent from or in opposition to the Government were allowed to run, and no views contrary to the Government or the Communist Party were expressed in the government-controlled national media. The Government saturated the media and used government ministries, Communist Party entities, and mass organizations to urge voters to cast a "unified vote" where marking one box automatically selected all candidates on the ballot form. In practice

the Communist Party approved candidates for all offices. A small minority of candidates did not belong formally to the Communist Party. The Communist Party was the only political party allowed to participate in the elections.

Deputies in the National Assembly, delegates in the provincial assemblies, and members of the Council of State are elected during general elections every 5 years. Municipal elections are held every 2½ years to elect 14,686 local representatives to the municipal assemblies, the lowest level of the Government's structure. In April 2000, the Government held elections for local representatives to the municipal assemblies. Government newspapers reported that 98 percent of voters participated in the election. Slightly more than 50 percent of those elected were incumbents, 20 percent were women, and approximately 9 percent of all candidates were between the ages of 16 and 30. The reports also claimed that nationwide the number of blank ballots decreased from 3.2 percent to 2.8 percent, while the number of annulled votes also decreased to 3 percent from nearly 4 percent, compared with the last election.

Although not a formal requirement, in practice Communist Party membership is a prerequisite for high-level official positions and professional advancement.

The Government rejects any change to the political system judged incompatible with the revolution and ignored and actively suppressed calls for democratic reform. Although President Castro signed the Declaration of Vina del Mar at the Sixth Ibero-American Summit in 1996, in which government leaders reaffirmed their commitment to democracy and political pluralism, the Government continued to oppose independent political activity on the ground that the national system provides a "perfected" form of democracy and that pluralism exists within the one-party structure.

Government leadership positions continued to be dominated by men. There are no legal impediments to women voting, holding political office, or rising to political leadership; however, the percentage of women in government and politics does not correspond to their percentage of the population. There are very few women or minorities in policymaking positions in the Government or the Party. There are 2 women in the 24-member Politburo, 18 in the 150-member Central Committee, and 166 in the 601-seat ANPP. Although blacks and persons of African descent make up more than half the population, they only hold six seats in the Politburo.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government does not recognize any domestic human rights groups or permit them to function legally. The Government subjects domestic human rights advocates to intense intimidation, harassment, and repression. In violation of its own statutes, the Government refuses to consider applications for legal recognition submitted by human rights monitoring groups (see Section 2.b.).

Dissidents generally believe that most human rights organizations have been infiltrated and are subjected to constant surveillance. Activists believe that some of the dissidents are either state security officials or are persons attempting to qualify for refugee status to leave the country.

In its 1997 report, the IACHR examined measures taken by the Government and found that they did not "comprise the bedrock of a substantive reform in the present political system that would permit the ideological and partisan pluralism implicit in the wellspring from which a democratic system of government develops." The IACHR recommended that the Government provide reasonable safeguards to prevent violations of human rights, unconditionally release political prisoners and those jailed for trying to leave the country, abolish the concept of dangerousness in the Penal Code, eliminate other legal restriction on basic freedoms, cease harassing human rights groups, and establish a separation of powers so that the judiciary no longer would be subordinate to political power (see Sections 1.c. and 1.e.).

On May 8, a state security official confiscated the signed petitions that Carlos Brizuela Yera collected on behalf of Project Varela. This is a project sponsored by the Christian Liberation Movement, led by Oswaldo Paya Sardinias, to have 10,000 citizens sign a petition requesting a popular referendum, as provided for by the Constitution of 1976, on the need for political and economic changes. Project Varela proposes five areas where laws should be changed based on existing constitutional rights, including the right to free expression, the right to free association, amnesty for those jailed for "political motives," the right to set up businesses, and a new electoral law allowing citizens to vote for multiple candidates as a better form of "participatory democracy."

The Government steadfastly has rejected international human rights monitoring. In 1992 the country's U.N. representative stated that the Government would not recognize the mandate of the U.N. Commission on Human Rights on Cuba and

would not cooperate with the Special Rapporteur on Cuba, despite being a UNCHR member. This policy remained unchanged, and the Government refused even to acknowledge requests by the Special Rapporteur to visit the country. In 1998 the UNCHR did not renew the mandate of the Special Rapporteur, following as yet unfulfilled assertions by the Government that it would improve human rights practices if it was not under formal sanction from the UNCHR. As in 2000, the UNCHR again passed a resolution on April 18, introduced by the Czech Republic, which expressed concern about the human rights situation in the country. Unlike in the previous year, there were no organized marches past the Czech Embassy in Havana.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The country is a multiracial society with a black and mixed-race majority. The Constitution forbids discrimination based on race, sex, or national origin, although evidence suggests that racial discrimination occurs frequently.

Women.—Violent crime rarely was reported in the press, and there was no publicly available data regarding the incidence of domestic violence and rape; however, human rights advocates reported that violence against women was a problem. The law establishes strict penalties for rape, and the Government appears to enforce the law; however, according to human rights advocates, the police do not act on cases of domestic violence.

The U.N. Special Rapporteur on Violence Against Women visited the country in 1999 and issued a report of findings in February 2000. The report stated that most government officials did not view violence against women as a prevalent problem. However, activists at the grassroots level were very attuned to problems of violence affecting women. The Rapporteur urged the Government to take comprehensive steps to enhance the legal protection against violence against women and specifically urged the adoption of legislation to address domestic violence and sexual harassment.

Prostitution is legal for persons over 17 years of age; however, pandering or otherwise benefiting from prostitution is a felony. Prostitution has increased greatly in the last few years. Press reports indicated that tourists from various countries visited specifically to patronize inexpensive prostitutes. A government crackdown on prostitution that began in late 1998 initially had some effect, but prostitutes (known as “jineteras”) still were visible in Havana and other major cities during the year. Police obtained early success in their efforts by stationing officers on nearly every major street corner where tourists were present. Some street police officers were suspected of providing protection to the jineteras. Most observers believe that the Government clamped down on prostitution to combat the perception that the Government promotes sex tourism. The Government set up centers to take prostitutes off the streets and reeducate them. In a February 2000 report, the U.N. Special Rapporteur on Violence Against Women recommended that the Government dismantle the centers and find “other mechanisms that do not violate the rights of the prostitutes.” There was no information available regarding whether or not the Government dismantled these centers.

The Family Code states that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. Women were subject to the same restrictions on property ownership as men. On May 1, the maternity law was changed to provide up to 1 year of maternity leave, an increase from 18 weeks. The law also grants working mothers preferential access to goods and services. Approximately 40 percent of all women work, and they are well represented in many professions. According to the Cuban Women’s Federation (FMC), in 2000 women held 33 percent of managerial positions. The FMC also asserted that 11,200 women had received land parcels to cultivate, that more than 561,000 women had begun working as agricultural workers, and that women devoted 34 hours a week to domestic work, approximately the same number of hours they spend working outside the home.

Children.—The Constitution provides that the Government protect family, maternity, and matrimony. It also states that children, legitimate or not, have the same rights under the law and notes the duties of parents to protect them. The law requires school attendance until the ninth grade, and this law generally is respected in practice. Education is free, but it is grounded in Marxist ideology. State organizations and schools are charged with the integral formation of children and youth. The national health care system covers all citizens.

There was no societal pattern of abuse of children. However, child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families. It is illegal for a person under 17 years of age to engage in prostitution. The police began to enforce this law more actively in late 1998 and contin-

ued to do so during the year as part of a general crackdown on prostitution. However, the phenomenon continued as more cabarets and discos open for the growing tourist industry, which made it easier for tourists to come into contact with child prostitutes.

Police officers who find children loitering in the streets or begging from tourists frequently intervened and tried to find the parents. If the child was found bothering tourists a second time, police frequently fined the child's parents.

Persons with Disabilities.—The law prohibits discrimination based on disability, and there have been few complaints of such discrimination. On January 15, Juan Carols Gonzalez Leyva and Luis Esteban Alvarez of the Independent Fraternity of the Blind of Cuba (FRACIC) sent a letter to President Castro complaining about the difficult situation that blind persons encounter. They blamed the Government's lack of will for this situation. The letter specifically referred to a November 2000 incident in which a special police operation dislodged a number of persons with disabilities from selling their products in Central Havana. Police arrested two persons, and a court sentenced one of them to 1 year in jail for selling stolen goods.

There are no laws that mandate accessibility to buildings for persons with disabilities. In practice buildings and transportation rarely are accessible to persons with disabilities.

National/Racial/Ethnic Minorities.—Many persons of African descent have benefited from access to basic education and medical care since the 1959 revolution, and much of the police force and army enlisted personnel is black. Nevertheless racial discrimination often occurred and was acknowledged publicly by high governmental officials, including President Castro during remarks at the World Conference on Racism in South Africa. President Castro acknowledged that the revolution has not eradicated racism. There were numerous reports of disproportionate police harassment of black youths. Evictions, exacerbated by Decree 217, primarily targeted individuals and families from the eastern provinces, which are traditionally areas of black or mixed-race populations (see Section 2.d.).

Section 6. Worker Rights

a. The Right of Association.—The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment. The demands of the economy and society take precedence over individual workers' preferences. The law prohibits strikes; none were known to have occurred. Established official labor organizations have a mobilization function and do not act as trade unions, promote worker rights, or protect the right to strike. Such organizations are under the control of the State and the Communist Party, which also manage the enterprises for which the laborers work.

The Communist Party selects the leaders of the sole legal labor confederation, the Confederation of Cuban Workers, whose principal responsibility is to ensure that government production goals are met. Despite disclaimers in international forums, the Government explicitly prohibits independent unions and none are recognized. There has been no change in conditions since the 1992 International Labor Organization (ILO) finding that the Government violated ILO norms on the freedom of association and the right to organize. Those who attempted to engage in unofficial union activities faced government harassment.

Workers may lose, and many have lost their jobs for their political beliefs, including their refusal to join the official union. Several small independent labor organizations have been created but function without legal recognition and were unable to represent workers effectively or work on their behalf. The Government actively harassed these organizations. On January 26, the Government released Pedro Pablo Alvarez Ramos, the secretary general of the Council of Cuban Workers (CUTC), without charging him; he had been arrested in October 2000. On February 3, Jordanis Rivas Hernandez and Cecilia Chavez Gonzalez, both workers in an agroindustrial plant in the province of Villa Clara, reportedly were expelled for "lack of confidence," a reference to their involvement in independent labor movements (see Section 1.f.). On June 8, independent labor activist Jose Orlando Gonzalez Bridon of the Confederation of Democratic Workers of Cuba was sentenced to 2 years in jail (see Section 1.e.); he was released after serving 1 year, including pretrial detention. On July 23, police briefly detained Nestor Gonzalez Penton, a member of the Confederation of Democratic Workers of Cuba in Santa Clara. During his interrogation, Gonzalez was told that if he did not find work soon he would be incarcerated for "dangerousness." Most political dissidents lose their jobs and remain unemployed; the only work they are offered is cleaning streets. On September 3, the first national conference of the Confederation of Independent Workers was held in the house of independent journalist Aleida Godinez Soler. Fourteen of the 30 delegates arrived before security forces began telling persons to leave, and 2 persons were detained

and released the same day. In the document "the Declaration of September," the members affirmed their commitment to criticize labor violations and to work with workers arbitrarily dismissed from their jobs for political reasons.

The CTC is a member of the Communist, formerly Soviet-dominated World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively.—Collective bargaining does not exist. The State Committee for Work and Social Security (CETSS) sets wages and salaries for the state sector, which is almost the only employer in the country. Because all legal unions are government entities, antiunion discrimination by definition does not exist.

The 1995 Foreign Investment Law denies workers the right to contract directly with foreign companies investing in the country without special government permission. Although a few firms have managed to negotiate exceptions, the Government requires foreign investors to contract workers through state employment agencies, which are paid in foreign currency and, in turn, pay workers very low wages in pesos. Typically workers received 5 percent of the salary paid by the companies to the state. Workers subcontracted by state employment agencies must meet certain political qualifications. According to Minister of Basic Industry Marcos Portal, the state employment agencies consult with the Party, the CTC, and the Union of Communist Youth to ensure that the workers chosen "deserve" to work in a joint enterprise.

There were no functioning export processing zones, although the law authorizes the establishment of free trade zones and industrial parks.

c. Prohibition of Forced or Compulsory Labor.—Neither the Constitution nor the Labor Code prohibits forced labor. The Government maintained correctional centers where it sent persons for crimes such as dangerousness. Prisoners held there were forced to work on farms or building sites; for example, doing construction, agricultural work, or metal working. The authorities often imprisoned internees who did not cooperate.

The Government employs special groups of workers, known as "microbrigades," who are reassigned temporarily from their usual jobs to work on special building projects. These microbrigades increasingly have become important in the Government's efforts to complete tourist and other priority projects. Workers who refused to volunteer for these jobs often risked discrimination or job loss. Microbrigade workers reportedly received priority consideration for housing assignments. The military assigns some conscripts to the Youth Labor Army, where they serve a 2-year military service requirement working on farms that supply both the armed forces and the civilian population.

The Government prohibits forced and bonded labor by children; however, the Government required children to work without compensation. All students over age 11 were expected to devote 30 to 45 days of their summer vacation to farm work, laboring up to 8 hours per day. The Ministry of Agriculture used "voluntary labor" by student work brigades extensively in the farming sector.

d. Status of Child Labor Practices and Minimum Age for Employment.—The legal minimum working age is 17 years. However, the Labor Code permitted the employment of 15- and 16-year-old children to obtain training or to fill labor shortages. The Government prohibits forced and bonded child labor; however, it strongly encouraged children to work without compensation (see Section 6.c.). According to school rules, refusal to do agricultural work could affect the student's ability to continue studying at the institution.

e. Acceptable Conditions of Work.—The CETSS sets the minimum wage, which varies by occupation. For example, the minimum monthly wage for a maid is \$8.25 (165 pesos); for a bilingual office clerk, \$9.50 (190 pesos); and for a gardener \$10.75 (216 pesos). The Government supplements the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of being admitted to a hospital), housing, and some food (this subsidized food is enough for about 1 week per month). However, even with these subsidies, the minimum wage does not provide a decent standard of living for a worker and family. Corruption and black market activities were pervasive. The Government rations most basic necessities such as food, medicine, clothing, and cooking gas, which were in very short supply.

The Government requires foreign companies in joint ventures with state entities to hire and pay workers through the State (see Section 6.b.). Human Rights Watch noted that the required reliance on state-controlled employment agencies effectively leaves workers without any capacity directly to negotiate wages, benefits, the basis of promotions, and the length of the workers' trial period at the job with the employer. Foreign companies pay the Government as much as \$500 to \$600 per worker

per month while the workers in turn receive only a small fraction of that in pesos from the Government.

The standard workweek is 44 hours, with shorter workweeks in hazardous occupations, such as mining. The Government reduced the workday in some government offices and state enterprises to save energy.

Workplace environmental and safety controls usually were inadequate, and the Government lacked effective enforcement mechanisms. Industrial accidents apparently were frequent, but the Government suppressed such reports. The Labor Code establishes that a worker who considers his life in danger because of hazardous conditions has the right not to work in his position or not to engage in specific activities until such risks are eliminated. According to the Labor Code, the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

f. Trafficking in Persons.—The Penal Code prohibits trafficking in persons through or from the country and provides for penalties for violations, including a term of 7 to 15 years' imprisonment for organizing or cooperating in alien smuggling through the country; 10 to 20 years' imprisonment for entering the country to smuggle persons out of the country; and 20 years to life in prison for using violence, causing harm or death, or putting lives in danger in engaging in such smuggling. These provisions were directed primarily at persons engaging in organized smuggling of would-be emigrants. In addition the revised code made it illegal to promote or organize the entrance of persons into or the exit of persons from the country for the purpose of prostitution; violators are subject to 20 to 30 years' imprisonment.

There were no reports that persons were trafficked to, from, or within the country for the purpose of providing forced labor or services.

DOMINICA

Dominica is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a unicameral legislative assembly compose the Government. A president, nominated by the Prime Minister in consultation with the leader of the opposition party, and elected for a 5-year term by the Parliament, is head of state. The Prime Minister is Pierre Charles of the Dominica Labour Party (DLP), which prevailed in generally free and fair elections in January 2000, and has a majority coalition in Parliament. The judiciary is generally independent.

The Dominica Police—the only security force—is controlled by and responsive to the democratically elected Government. There were occasional allegations of abuse by the police.

The country's population is approximately 72,000, and its primarily agrarian economy depends on earnings from banana exports, which declined some 34 percent during the year. The Government's efforts to develop the tourist industry had mixed results, with a decline in tourist arrivals but an increase in cruise ship visitors during the year. The Government also is diversifying agricultural production and promoting the export of fresh fruits, vegetables, and coconut products, both within and outside the region. The manufacture of soaps, toiletries, and cardboard boxes fell significantly during the year, while the production of higher valued dental cream rose by over 4 percent. Unemployment surpassed 23 percent, and real growth in gross domestic product (GDP) was estimated at 0.2 percent in the fiscal year ending in March, compared with 1.6 percent the previous year. Per capita GDP was approximately \$3,750 in 2000.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. The principal human rights problems are occasional instances of use of excessive force by police, poor prison conditions, societal violence against women and children, instances of discrimination against indigenous Carib Indians, and societal discrimination against female Caribs in mixed marriages.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were several allegations of occasional use of excessive force by the police.

The police have an Internal Affairs Department to investigate public complaints against the police and to provide counseling to police officers. In 1998 a consultant from the United Kingdom conducted a 3-month study to update antiquated police regulations and to establish new operational guidelines for the police. This report was submitted to the Government in 1998, but the recommendations were not implemented by year's end.

Prison conditions are poor. Overcrowding and unsanitary conditions continue to be problems in the sole prison facility, which held 215 prisoners as of October. The prison provides work therapy, sports programs, educational opportunities, and counseling for inmates. There continued to be complaints by prisoners about the poor quality of prison food. Pretrial detainees are housed with convicted prisoners, due to overcrowding and a lack of sufficient holding cells. Female prisoners are segregated from male prisoners; however, juveniles are housed with adult inmates.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires that the authorities charge persons with a crime within 24 hours after arrest. If charges are brought, the police must bring the detainee to court within 72 hours. This requirement generally is honored in practice, although those arrested on Fridays often must remain in jail over the weekend and are not charged until the following Monday.

The Government does not use forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and it is generally independent in practice.

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate courts located in police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

The law provides for public trial before an independent, impartial court. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provide free legal counsel to the indigent only in capital cases.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices; government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for the right of free expression, and the Government generally respects this right in practice. The political opposition openly criticizes the Government.

The print media consist of four private newspapers and political party journals; all publish without censorship or government interference. The principal radio station is state-owned and has a government-appointed board. There is also an independent radio station owned by a private company. A radio station that formerly was owned by the Catholic Church ceased operations several years ago due to financial difficulties. Citizens also have access to independent news sources through cable television and radio reception from neighboring islands.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms of assembly and association, and the Government generally respects these rights in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. However, it is not clear whether such complaints reflect discrimination on the basis of religious belief by the authorities or simply enforcement of laws against marijuana, which is used as part of Rastafarian religious practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respects them in practice. The Government may revoke passports if subversion is suspected but has not done so in the past several years.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution calls for elections at least every 5 years.

In January 2000, the Dominica Labour Party won 10 seats in generally free and fair elections, defeating the United Workers' Party (UWP) which had held power since 1995. DLP leader Roosevelt P. "Rosie" Douglas forged a majority coalition of 13 seats in the 21-member Parliament, with the Dominican Freedom Party, holder of 2 seats, and 1 former UWP parliamentarian who changed party affiliation to join the DLP Government. Douglas died in office in October 2000, and the former Minister of Communication and Works, Pierre Charles, became the Prime Minister. Ian Douglas, nephew of Rosie Douglas and representing the DLP, won the December 2000 by-election for the deceased Prime Minister's seat. Observers considered that election to be generally free and fair.

There are no impediments in law or in practice to the participation of women in leadership roles in government or political parties; however, the percentage of women in government or politics does not correspond to their percentage of the population. There are two female members of parliament.

Carib Indians participate in national political life; however, the percentage of Caribs in government or politics does not correspond to their percentage of the population.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no government restrictions on the formation of local human rights organizations, although no such groups exist. Several advocacy groups, such as the Association of Disabled People, the Dominican National Council of Women, and a women's and children's self-help organization, operate freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution includes provisions against racial, sexual, and religious discrimination, which the authorities respect in practice.

Women.—Domestic violence cases are common, and there is no family court to deal specifically with domestic violence issues. Statistics from the Complaints and Reports Hot Line stated that there were 128 acts of violence reportedly committed against women in 2000, compared with 114 acts in 1999. Women can bring charges against husbands for battery, and both the police and the courts prosecute cases of rape and sexual assault, but there are no specific spousal abuse laws. However, in 1998 a new Sexual Offences Act went into effect to replace the previous act, which required medical evidence or witness corroboration for indictment. As a matter of policy, all rape cases are handled solely by female police officers. The Department of Labor recruited a permanent counselor and established a crisis response mechanism to assist women who are victims of domestic violence. The Welfare Department assists victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reports all cases of abuse to the police. The courts may issue protective orders, but the police do not enforce them consistently. The Dominica National Council of Women, a nongovernmental organization, teaches preventive education about domestic violence and maintains a shelter where counseling and mediation services for men and women are available daily. The organization permits persons to stay at the shelter for 3 weeks at a time.

Sexual harassment is a problem.

Beyond the general protection of the Constitution, women do not benefit from any specific civil rights legislation. While there is little open discrimination against women, property ownership continues to be deeded to "heads of households," who are usually males. When the male head of household dies without a will, the wife cannot inherit the property or sell it, although she can live in it and pass it to her children. In the civil service, the law establishes fixed pay rates for specific jobs, whatever the gender of the incumbent. According to the Labor Department, many

women in rural areas find it difficult to meet basic needs, at least in part owing to the decline in the banana export industry.

The Dominica National Council of Women has developed local adult education and small business training programs for women.

Children.—The law stipulates that the Government should protect the rights of children to education and health care. Education is compulsory through the age of 16, and primary health care is available throughout the island.

Various laws enumerate children's rights, but their enforcement is hampered by lack of staffing in government agencies. According to the Welfare Department, cases of child abuse, including sexual abuse, have increased in the past few years, despite fluctuations in statistics of actual reports. In 2000 there were 269 reported cases of child abuse, compared with 303 cases in 1999. The 269 cases affected 80 boys and 189 girls. Of these cases, 162 involved sexual abuse. There were 139 cases reported to the Welfare Division alone as of October. These figures, which did not yet include cases reported to the police, included 81 cases of sexual abuse; 18 boys and 121 girls were victims. At year's end, there were nine staff members in the social welfare office that handles all welfare problems, including complaints of child abuse.

Although the maximum sentence for sexual molestation (rape, incest) is life imprisonment, the normal sentence given is 15 years except in the case of murder. The age of consent for sexual relations is 16 years.

Persons with Disabilities.—Beyond the general protection of the Constitution, there is no specific legislation to address problems facing persons with disabilities. However, the labor laws permit authorization of employment of a person with disabilities for less than the minimum wage, in order to increase opportunities for employment of such persons (see Section 6.e.). There is no requirement mandating access for those with disabilities.

Indigenous People.—There is a significant Carib Indian population, estimated at 3,400 persons, of a total population of 72,000. Most live on a 3,783-acre reservation created in 1903 and expanded in 1997. School, water, and health facilities available on the Carib reservation are rudimentary but similar to those available to other rural citizens. Most Carib Indians engage in farming, fishing, and handicraft. Unemployment is believed to be higher than in rest of the country, while the average income is below the national average. About 65 percent of the Carib population is between the ages of 18 and 35.

The reservation is governed by the 1978 Carib Constitution. Carib Indians over the age of 18 who reside there are eligible to vote for the Chief and eight members of the Council of Advisors. Elections are held every 5 years, and the latest election was held in 1999. According to the Carib Constitution, the Council must meet once a month, determine the chief's itinerary, and publish council meeting agendas in the government Gazette.

There are credible reports of discrimination against Carib women who are married to, or who live with, non-Carib men, making it difficult for such couples to obtain permits to build homes within the reservation. Building permits are obtained from the Carib Council. Until 1979 the Carib Constitution allowed Carib men married to non-Carib women to continue living on the Carib reserve but dictated that Carib women married to non-Carib men had to move off the reservation. Although the law has changed, practice is not yet in keeping with the law. An estimated 25 percent of the Carib Indian population is believed to be in mixed marriages or relationships.

Section 6. Worker Rights

a. The Right of Association.—All workers have the legal right to organize, to choose their representatives, and to strike, but unions represent less than 10 percent of the work force. However the banana, coconut and citrus fruit industries as well as port services are deemed "essential services," which effectively prohibits workers in these sectors from going on strike. The International Labor Organization (ILO) has asked the Government to exclude these workers from the essential services category, since such employment is not considered to be essential in relevant international labor conventions.

All unions are independent of the Government. While there are no direct ties, members of certain political parties dominate some unions. There is no restriction on forming labor federations, but there is no Trades Union Congress. In June the Public Service Workers Union circulated a proposal to create a "congress of unions" as an umbrella organization, but it drew no response from other unions or employee associations. There were no significant strikes during the year. On November 1, 100 police officers staged a sick-out that briefly crippled operations around the island. The action was taken to draw attention to a decade-long dispute between the Government and the Police Welfare Association over pension benefits.

Unions may affiliate with various international labor bodies.

b. The Right to Organize and Bargain Collectively.—Unions have legally defined rights to organize workers and to bargain with employers. Collective bargaining is widespread in the nonagricultural sectors of the economy, including in government service, and there is also recourse to mediation and arbitration by the Government. The law prohibits antiunion discrimination by employers, and judicial authorities enforce union rights. In addition, employers must reinstate workers fired for union activities. The law requires that employers recognize unions as bargaining agents once both parties have followed appropriate procedures. Department of Labor inspectors under the supervision of the Labor Commissioner enforce labor legislation, but the small Labor Inspection Office lacks sufficient personnel to carry out its duties.

Labor regulations and practices governing the country's industrial areas and export firms do not differ from those prevailing in the rest of the economy. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including that by children, and such labor is not known to exist. The ILO has asked the Government to repeal the National Service Act, on the grounds that it is conducive to forced labor for economic development.

d. Status of Child Labor Practices and Minimum Age for Employment.—The minimum legal age for employment is 15 years. Employers generally observe this law without government enforcement. In April the Government ratified ILO Convention 182 on elimination of the worst forms of child labor. The law prohibits forced or bonded child labor, and the Government enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work.—The law sets minimum wages for various categories of workers, but these were last revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) is as low as \$0.37 (EC\$1.00) per hour if meals are included. However, minimum wages for most workers fall in a range between \$0.74 (EC\$2.00) per hour for tourist industry workers to \$1.11 (EC\$3.00) per hour for occupations such as shop clerks. Minimum wages are not sufficient to provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earn more than the legislated minimum wage for their category. The Minimum Wage Advisory Board met in 1998 and recommended increases in these wage levels, but the Government had not yet acted upon these recommendations at year's end.

The labor standards laws state that no employer shall establish or maintain differences in wages between men and women performing the same or similar work with parallel responsibilities under similar conditions. The law further states that no employer may reduce the wages of an employee to comply with equal wage standards. The labor laws also provide that the Labor Commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides for a minimum of 2 weeks' paid vacation per year. The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. The Advisory Committee on Safety and Health is an established body but has never met. The rarely used enforcement mechanism consists of inspections by the Department of Labor, which can and does prescribe specific compliance measures, impose fines, and prosecute offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons.

The country has an economic citizenship program that allows foreign investors to purchase passports through loosely monitored procedures requiring cash inflows ranging from \$15,000 (EC\$40,000) to \$50,000 (EC\$135,000). This process reportedly has facilitated the illegal immigration of persons from China and other countries to North America where, in some cases, they may be forced by the criminal organizations that provided the funds to work under conditions similar to bonded labor to repay their debt. The new Government moved to curtail the economic citizenship program, following complaints from the Governments of Canada and Australia. However, a form of the program still existed at year's end. There were reports that 52 persons purchased economic citizenship between August 15, 2000, and January 12.

DOMINICAN REPUBLIC

The Constitution provides for a popularly elected president and a bicameral Congress. President Hipolito Mejia of the Dominican Revolutionary Party (PRD) took office in August 2000 after a generally free and fair election, replacing President Leonel Fernandez of the Dominican Liberation Party (PLD). The PRD also has control of the Senate and Chamber of Deputies. The Constitution provides for an independent judiciary; however, interference from outside forces, including the executive branch, remains a problem.

The National Police (PN), the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the armed forces (army, air force, and navy) form the security forces. The military's domestic responsibilities include maintaining public order and protecting traffic, industry, commerce, persons, and property. The PN is under the Secretary of the Interior and Police; the military is under the Secretary of the Armed Forces; and the DNI and the DNCD, which have personnel from both the police and the military, report directly to the President. Although the security forces generally are responsive to civilian authority, there were instances in which members of the security forces, principally the National Police, acted independently of government authority or control. Members of the National Police, and to a lesser extent the military, continued to commit serious human rights abuses.

The country has a population of approximately 8.5 million. The economy, once heavily dependent on sugar and other agricultural exports, continues to diversify; tourism, telecommunications, and free trade zones (FTZ's) are major sources of income and employment. Remittances from abroad exceed \$1.9 billion per year. Economic growth, which exceeded 7 percent per year from 1996 through 2000, was projected to drop to approximately 3 percent for the year; however, inflation remained low and the exchange rate has been stable. The 1999 transfer of sugar mills to private control contributed to increasing poverty and joblessness in the "bateyes" (sugar cane shantytowns). Gross domestic product was approximately \$2,100 per capita. Income distribution in the country is highly skewed and, according to the U.N. Development Program, the richest 10 percent of the population receives over 37 percent of the income, over 18 times that received by the most impoverished 10 percent of the population.

The Government's human rights record was poor, and serious problems remain. Police committed extrajudicial killings. The police, and to a lesser degree the military, tortured, beat, and otherwise abused detainees and prisoners. The authorities rarely prosecuted abusers, and at times members of the security forces committed abuses with the tacit acquiescence of the civil authorities, leading to a climate of impunity. Police on several occasions used excessive force to disperse demonstrators. Prison conditions ranged from poor to harsh. Police arbitrarily arrested and detained suspects and suspects' relatives. While improvements in the efficiency of the judiciary continue, lengthy pretrial detention and long delays in trials remained problems. The Government referred several cases of police abuse to the civilian courts, instead of nontransparent proceedings in police courts. In December the Supreme Court ruled in one case that police officers charged in extrajudicial killings should stand trial in the civilian courts. The authorities infringed on citizens' privacy rights, and police entered private homes without judicial orders. Members of the President's security force mistreated journalists, and journalists at times practiced self-censorship. The Government restricted the movement of and forcibly expelled Haitian and Dominican-Haitian migrants. Violence and discrimination against women; prostitution, including child prostitution; abuse of children; discrimination against persons with disabilities; discrimination against and abuse of Haitian migrants and their descendants; and child labor were serious problems. There continued to be reports of forced labor. Workers on the sugar plantations and mills continued to work in unsafe conditions. Trafficking in persons was a serious problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by government officials; however, police committed over 250 extrajudicial killings.

It is difficult for any outside observer to quantify the exact number of victims of extrajudicial killings each year; included in this number are civilians who were killed in alleged "exchanges of gunfire" with police. The police failed to cooperate with civilian authorities in many ways, which made quantifying the problem very

difficult. For example, the police did not provide Public Ministry officials with reports on investigations of citizens killed in confrontations with police; police rarely documented citizen killings in accordance with minimum investigation or crime scene standards; police denied civilian authorities, including prosecutors requesting information, transcripts of police court hearings that process these cases in secret (see Section 1.e.); and the police have been known publicly to fire officials involved in these incidents, only to reinstate them quietly later.

The Dominican Human Rights Committee and other observers state that the police employ unwarranted deadly force against criminal suspects in a kind of uniformed vigilantism, or in some cases because criminals refused to pay police "commissions" or bribes to ignore criminal activity. In addition, some victims are involved in private disputes with police agents, while other victims later were found to be honest citizens erroneously caught up in the wave of antigang violence carried out by the police. The circumstances of the vast majority of these killings are questionable, but witnesses other than the police usually are lacking. Police courts may try police officers or may remand them to civilian court jurisdiction; however, the police send very few cases to civilian courts (see Section 1.e.). Military courts try military personnel charged with extrajudicial killings or other crimes.

Extrajudicial killings stem from the lack of basic education, poor training, and weak discipline of the members of the police force. These problems are aggravated by low pay and the fact that the Government's budgetary allocation for the police is too low to support the higher recruiting standards needed and to provide adequate training for police. For example, new recruits fire only one round of ammunition during training, and there is no coherent policy on the use of deadly force or rules of engagement by the police. Additionally, the lack of professional, transparent, and credible investigation of the circumstances in which police kill citizens in "exchanges of gunfire" lead to widespread impunity for such killings. Finally, there is a lack of meaningful training in human rights as applied to police work.

In the majority of over 250 deaths at the hands of police, the police characterized the victims of police killings as delinquents. The rest were wives, girlfriends, other civilians, or fellow officers. In most cases, the police claimed that the deaths resulted from the exchange of gunfire in the course of an arrest. In 1999 the Inter-American Commission on Human Rights (IACHR) issued a report that criticized the police for committing extrajudicial killings and neglecting to investigate and punish officers responsible for such abuses. Police assert that the deaths of so-called delinquents resulted from shoot-outs requiring the police to act in self-defense. However, a number of cases demonstrate that this often is not the situation.

For example, on May 11, police allegedly shot 26-year-old Ruben Dario Paniagua in the head as he sat on the curb in front of his house reading the newspaper with his 10-year-old brother. Witnesses claimed that he was killed because he refused a police attempt to shake him down for money. His neighborhood, the El Capotillo barrio, extensively protested the shooting. On May 14, during a protest over Paniagua's killing, police confronted protesters, killing 37-year-old Jose Alejandro Moran and 16-year-old Marcos Ezequiel Olivares, and also wounding several other bystanders. Protests continued in Capotillo on May 16 and spread into the neighboring area called Villas Agricolas. President Mejia formed a committee led by the head of the Armed Forces to investigate the deaths. The authorities arrested two police officers, Franklin Tejada Tejada and Carlos Miguel Feliz Mateo, for shooting Paniagua. The police claimed that the two other individuals killed during the protests were not killed by members of the National Police, but by a civilian, Hector Bienvenido Cross, whom they alleged was a neighborhood agitator. Community leaders charged that six police officers were involved in the shootings and that Cross was connected to the police. Cross later said that he worked for the police; however, an investigation showed that the bullet found in one of the victims did not come from Cross's gun. The authorities subsequently arrested two additional police officers, Ivan Andres Duran and Wellington Gabriel Carrasco, and a member of the armed forces, Warren Antonio Matos. In September an instruction judge sent Cross, Tejada, Mateo, and Matos to be tried in a civilian criminal court, which they appealed. In December the appeals court confirmed that they would be tried in a civilian criminal court. At year's end, no trial date had been set; the authorities released the other persons detained in connection with this case.

On June 11, a police officer in La Romana shot and killed 37-year-old Carmelo del Rosario in front of his wife and children. Del Rosario had criticized the officer for nearly hitting his small daughter with his car. In response, the officer reportedly pulled out a gun and shot him. The officer said that his actions were in self-defense, but witnesses denied that Carmelo attacked the officer. The officer was removed from duty, and the case was sent to the civilian courts.

On July 5, police shot and killed a university student, Wendy Altagracia Gatón Tejada, in the Santo Domingo neighborhood of Herrera during a protest. One officer involved in the case was sent to civilian court, but by year's end, the instruction judge had not ruled on whether the case should go to trial. Three other officers were sent to the military court; there was no public information regarding the status of their cases.

During the evening of September 29, in the neighborhood of Villa Francisca, police Private Francisco Reyes Santana, known as "Tyson," shot and killed 18-year-old Pedro Manuel Contreras, known as "Moreno." Witnesses stated that Tyson and four other police officers broke down the door to the house and chased Contreras to the street where he was shot at pointblank range. Contreras had been in prison before and had reported problems with Tyson since his release. Contreras's brother claimed to have been detained and tortured by officers searching for his brother prior to his brother's death. Neighbors stated that Tyson, Sergeant Medina Medina, and one other police officer often extorted money from Contreras and other youths in the barrio. Tyson reportedly had been sent to police courts seven previous times. According to police, Tyson and Sergeant Medina Medina were taken into custody, and the authorities named a commission to investigate the incident. The commission recommended that the officers be tried in police court. However, the District Attorney began proceedings to have Tyson and Medina charged in civilian courts. When the police refused to allow them to be tried in civilian courts, the Attorney General asked the Supreme Court to determine whether the police court or a civilian court was the proper forum for this case. On December 28, the Supreme Court ruled that the case was to be tried in a civilian court, stating that cases involving charges other than disciplinary matters should be tried in civilian courts.

According to nongovernmental organizations (NGO's) active along the border, the number of Haitian migrants killed by military personnel while attempting to enter the country was significantly less than in 2000. However, there were a few reported deaths. For example, in March a soldier shot and killed Elie-Jean Baptiste while the victim was attempting to cross the Massacre River from Haiti to participate in the market in Dajabon. Baptiste was at a spot where soldiers allow unofficial crossing for a cost of approximately \$0.60 cents (10 pesos). A soldier demanded that he pay closer to \$0.90 (15 pesos). When Baptiste refused and attempted to return to Haiti, he was shot in the back. According to NGO's, the officer involved was not punished.

The Mejía administration acknowledged the problems with the police apparatus and created a Police Reform Commission made up of the Chief of Police, the Attorney General, the Secretary of the Armed Forces, the Legal Advisor to the President, representatives of human rights organizations, and legislators. That commission developed legislation to modify the existing Police Law. The Chamber of Deputies modified the draft bill, which included suggestions from civil society, to limit use of police courts to cases of disciplinary actions and to eliminate the military ranks of the police. Due to controversy over these changes, the draft legislation remained pending in the Congress at year's end.

In several neighborhoods in Santo Domingo, civil society held protests against police violence (see Section 2.b.).

State agents in prisons also committed extrajudicial killings. In the army-run prison in San Pedro de Macoris, at least six prisoners died from injuries received while in custody. In September Martín Jimenes Mateo was shot and killed in what the authorities characterized as an escape attempt. There also were a number of deaths in prisons due to harsh conditions and official negligence (see Section 1.c.).

There were no developments in the cases of the police officers involved in the killing of Johnny Perdomo Santo in November 2000, Emilio José Matías and Lauri Méndez Sena in September 2000, the 30-year-old Haitian killed in August 2000, the six Haitians and one Dominican shot in July 2000, the killing of Juan Expedito García in July 2000, the killing of Juan José Urena in July 2000, or the killing of Antonio Lora Fernández in April 2000.

According to human rights groups, in the 2000 case involving three individuals shot in Najayo Prison in San Cristóbal, the officers involved never were tried in either a police or a civilian court. In the 1999 case in which the authorities arrested a general, a colonel, a legal consultant, and various police officers in connection with the deaths of three alleged delinquents in Moca, all were released without going to trial. The colonel subsequently was promoted.

Retired General Joaquín Pou Castro, former air force officer Mariano Cabrera Durán, and Luis Emilio de la Rosa Beras, convicted of the 1975 murder of journalist Orlando Martínez Howley, a critic of the Balaguer administration, appealed their 30-year sentences imposed in 2000. A fourth defendant, General Lluberas Montas, who was not tried with the others for health reasons, was supposed to be tried in

the Tenth Penal Court. He had eight hearings scheduled during the year, all of which were postponed because he failed to appear.

b. Disappearance.—There were no reports of politically motivated disappearances.

An instruction judge sent former Secretary of the Armed Forces Constantino Matos Villanueva to a criminal court in the case of Narciso Gonzalez, a university professor and critic of the Balaguer Government who disappeared in May 1994. The judge excluded two others, General Leonardo A. de Jesus Reyes Bencosme and Air Force Colonel Manuel Concepcion Perez Volquez, from the case, although in October the victim's family appealed this decision. There was no action during the year on the family's complaint to the IACHR.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit torture and other forms of physical abuse; however, security force personnel continue to torture, beat, and otherwise physically abuse detainees and prisoners. Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbate the problem of physical abuse. Human rights groups and the local press reported regular and repeated occurrences of physical abuse of detainees while in custody, including various forms of torture, beatings, and sexual abuse.

According to human rights organizations, the National Police, the DNCD, and prison officials all use forms of torture. The method most often used is beating. Other forms include asphyxiation with plastic bags to elicit confessions, and a torture method called "roasting the chicken" in which the victim is placed over hot coals and turned until confessing. After several former detainees went to the press in 1999 with credible reports that police interrogators had beaten them repeatedly, the Chief of Police and the Attorney General designated a commission to investigate this case. The beatings allegedly took place during periods of detention of up to 15 days without arraignment before a judge, although the Constitution permits only 48 hours of detention (see Section 1.d.). The informants reported that the police repeatedly awoke them during the night for questioning. Human rights advocates have described another form of abuse that guards reportedly use against prisoners in the Mexico section of San Pedro de Macoris prison. Prison officials use a punishment called "the toaster," where prisoners are laid, shackled hand and foot, on a bed of hot asphalt for the entire day and are beaten with a club if they scream. The army administers San Pedro de Macoris prison. In Barahona police were described as using a practice called "golpe de pollo" in which they beat a person's ears until they bleed.

Homosexual and transvestite detainees report to gay rights advocates that during detention the police have held them in a darkened room and have given them the alternative of performing fellatio on guards or being placed in a locked cell with the most dangerous prisoners, where the detainees presumed that they would be raped, beaten, or both. Other informants confirmed that the police use the prospect of being locked in with the most dangerous prisoners as a threat.

The three officers accused of being involved in June 2000 of torture and abuse of at least nine minors in the National District have not been tried by the police courts or the civil courts. An investigative judge in the Eighth Penal Court, who was assigned to investigate the case in the civilian courts, ruled that the court did not have jurisdiction over a police matter. The police court took no action.

In August 2000, judges of the Appeals Court for Children and Adolescents in San Pedro de Macoris made public a set of allegations of similar abuses committed against 19 minors in police stations in Juan Dolio and Boca Chica, as well as in the General Pedro Santana public jail, which is controlled by the army. During the year, there was no investigation into these alleged abuses by the police or the military.

The National District Prosecutor's office did not expand its program of placing lawyers in high-volume police stations and in several DNCD offices to monitor the investigative process and to ensure that detainees' rights were respected (see Section 1.d.). This initiative remained largely limited to the Santo Domingo metropolitan area, with a lesser presence in Santiago. There is some evidence that these assistant prosecutors at times acquiesce in traditional police practices, rather than attempt to raise these practices to constitutional standards. Less qualified prosecutors assigned to the rest of the country have not assumed strong roles in managing criminal investigations and ensuring the rights of suspects.

Civilian prosecutors sometimes file charges against police and military officials alleging torture, physical abuse, and related crimes. A 1997 law provides penalties for torture and physical abuse, including sentences of from 10 to 15 years in prison. However, until recently, these provisions were not known fully or applied by prosecutors and judges. There have been repeated calls by human rights groups for civil-

ian trials of officials charged with abuse and torture; however, most cases, if tried at all, are sent to military courts or police courts (see Section 1.e.).

The police at times forcibly dispersed demonstrators, using tear gas and weapons; one protest led to two deaths (see Sections 1.a., 2.b., and 6.b.).

During the year, the authorities dismissed 134 immigration employees for links with smuggling groups (see Section 6.f.).

Police officers also were fired for violent attacks, extortion, and drug use, including cocaine and marijuana. However, some discharged officers later were rehired. Significant problems also remain because serious efforts have not been made to vet police recruits. Many persons with prior criminal records reportedly have been incorporated into police ranks, either using false names or identification or with recommendations from other state institutions, such as the army.

Human rights courses are offered in the training curriculums for military and DNCD enlisted personnel and officers, although the courses are optional. In August the Military Institute of Human Rights offered its first diploma course in Human Rights. However, monitoring and sanctioning systems for abuses of human rights remain ineffective.

Prison conditions range from poor to harsh. Reports of torture and mistreatment in prisons are common. The prisons are seriously overcrowded, health and sanitary conditions are poor, and some prisons are out of the control of the authorities. The General Directorate of Prisons falls under the authority of the Public Ministry and is seriously underfunded. Budget allocations for necessities such as food, medicines, and transportation were insufficient. Prisoners and human rights groups also allege that prisoners are not taken to their trials if they fail to pay bribes to the guards (see Sections 1.d. and 1.e.). Medical care in all prisons suffers from a lack of supplies and available physicians. Prisoners immobilized by and dying of AIDS are not transferred to a hospital, but some terminal-stage inmates were released to spend their last days at home. Pretrial detainees are held together with convicted prisoners. Inmates are not separated by crime within the prison population; however, they may be put into solitary confinement for disturbances while incarcerated.

In 32 prisons around the country with a total capacity of 9,000 persons, the police and the military hold more than 15,500 prisoners and detainees. As of September, the military controlled 22 prisons with a total of 5,069 prisoners, and the National Police controlled 10 prisons, with a total of 10,486 inmates. A warden is responsible for running each prison and reports to the Attorney General through the Directorate of Prisons. A police or military colonel (or lieutenant colonel), who is appointed for 3 to 6 months only, reports to the warden and is responsible for providing security. However, in practice the colonel is in charge of the prison, and neither the Directorate of Prisons nor the individual wardens have much power. Some prisons are totally out of the control of the authorities. They are, in effect, operated by armed inmates, who decide whether an individual gets food, space to sleep, or medical care. Individual inmates only can secure a tolerable level of existence by paying for it. Only those with considerable personal or family resources can do so.

Newspapers and human rights groups reported that the overcrowding and deteriorating conditions at the Najayo prison, administered by the police, pose a serious threat to the health and safety of the inmates. The prison, which initially was built to hold 850 inmates and has a capacity for 1,320 inmates, holds over 2,849 persons. Inmates suffer from various illnesses including tuberculosis, bronchitis, and skin infections. Inmates who cannot afford to pay for beds are forced to sleep on the floor; these inmates are known as "frogs" because they sleep in the dirt. Inmates charge that they are only given one meal per day and that the food is inedible. In order to receive edible food, they must pay for it to be brought into the prison. Newspapers and human rights groups report that there is extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors.

Conditions at La Victoria prison, which is also run by the police, also pose a serious threat to life and health. In September this prison held 3,886 prisoners in a facility originally built for 1,000, but which prison authorities claim has the capacity for 2,000. In August work was completed on improvements to La Victoria, including the addition of 180 beds and renovation of the sewer system.

A government food program for the general public is used to provide lunches at some prisons. The former Director of Prisons reported that his office had a budget of \$0.50 (8 pesos) per inmate to provide three meals per day. Inmates surveyed said that the food provided was unacceptable, and most chose to eat whatever they could beg for or purchase from persons in the vicinity of the prison or from family members. Due to inefficiency and corruption within the prison system, visitors often have to bribe prison guards in order to visit prisoners.

Female prisoners are separated from male inmates. In general, conditions in the female prison wings are better than those found in male prison wings. There have been some reports of guards physically and sexually abusing female inmates. There were also reports that in the Najayo prison, guards forced women to act as prostitutes in exchange for food and protection. Female inmates, unlike their male counterparts, are prohibited from receiving conjugal visits. Those who deliver while incarcerated are permitted to keep their babies with them in prison until they reach 1 year of age.

The law requires that juveniles be detained separately from adults; however, in practice juveniles often are mixed with the general population. The authorities sometimes treated minors as adults—most often when physical forensic examinations indicated that the persons claiming to be minors were probably adults—and incarcerated them in prison rather than juvenile detention centers. Press reports found a high incidence of juveniles who were detained with adult prisoners being forced into sexual servitude in return for protection at prisons around the country. Human rights groups charged that nearly all of the 280 juveniles in Najayo prison who were housed with adults were abused sexually. In July after much delay, a new prison for minors was opened in Najayo, with a capacity of 200 persons. In December human rights groups charged that guards and prison staff continued to abuse minors in the new wing.

The Government permits prison visits by independent human rights monitors and by the press.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention are problems. The Constitution provides for the security of the individual against imprisonment without legal process, bars detention beyond 48 hours without the detainee being presented before judicial authorities, and prohibits custodial authorities from not presenting detainees when requested. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. However, the security forces continued to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The police traditionally detain all suspects and witnesses in a crime and use the investigative process to determine who are innocent and merit release, and who they should continue to hold. After the prosecutor's office placed its lawyers in several police stations in 1997, the police began to curtail the practice of arbitrary detention in those precincts. However, during the year, few new prosecutors were placed in police stations, and the effectiveness against human rights abuses of those working in police stations diminished (see Section 1.c.).

The prosecutor for the Court of Appeals in Santiago continued to report that the Department of Investigation of Homicide and Robbery of the National Police, Northern Command, routinely detained persons beyond the 48-hour limit. Detainees at police headquarters in Santo Domingo, known as "the palace," reported that they were held for 15 to 21 days. Juveniles held at the Department for Minors at the Villa Juana police station commonly are held for 8 to 14 days, well beyond the 24-hour limit for minors. The official in charge of the Department for Minors attributes this to lack of swift action by the Juvenile Defender, the Public Ministry official in charge of interrogating minors and sending them before a Juvenile Court judge. By law, juveniles may not be interrogated by the police or in the presence of police.

The police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrest and detain individuals arbitrarily. The alleged objective of the roundups is to fight delinquency. In June the police initiated "Operation Guaraguao," a series of sweeps of low-income neighborhoods in Santo Domingo, Santiago, and La Vega, in order to "combat violence." During these sweeps, police arrested large numbers of residents of the low-income communities and seized property including motorcycles, other vehicles, and weapons. For example, on August 29, during the seventh such operation, the police arrested over 230 persons. The armed forces also carried out similar sweeps. On July 14, the armed forces carried out "Operation Centella" in which they closed down all major routes into Santo Domingo, searched cars for weapons and drugs, and detained individuals thought to be criminals.

Following the indiscriminate arrests, the police regularly detain individuals for up to 20 days or more while they look for a reason to charge them with a crime, even though the law permits prosecutors only to order detentions for up to 48 hours without a judge's order. Human rights organizations report that individuals detained in these roundups frequently are beaten. For example, the police detained and beat a member of the Barahona Commission for Human Rights during one such sweep in February. The police say that they rely upon unlawful detention without presentation to a court because some cases involve more complicated investigations. However, there is a clear pattern of the police arresting individuals before investigating

a crime thoroughly, and relying on confessions to make their case. Without the education, training, or equipment to conduct modern forensic investigations, police rely instead on holding suspects incommunicado, repeatedly questioning them, and sometimes beating them, until they confess (see Section 1.c.).

A related problem is the police practice of arresting and detaining individuals solely because of their familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse are all vulnerable to this practice, the goal of which is to compel an at-large suspect to surrender or to coerce a confession from one already arrested. In 1999 the National Police Chief ordered that this practice be ended immediately; however, according to the Dominican Human Rights Committee, detentions of suspects' relatives have continued.

Local human rights organizations have reported on and criticized police roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly take groups of dark-skinned or "Haitian-looking" individuals to empty buildings soon after they are paid, in order to extort money from them. In April the authorities detained hundreds of Haitians after a rumor spread that some Haitian youths had burned a Dominican flag in La Romana. Many were beaten and later deported, and there was a wave of general violence directed toward Haitians (see Section 5).

Many suspects suffer long pretrial detention. Between 70 and 85 percent of the national prison population was awaiting trial; of these, about three-quarters were "prisoners without sentences," and the remainder had convictions under appeal. Judicial statistics showed reduced delays for 1998 and 1999 in the Santo Domingo National District (an area that accounts for approximately 45 percent of all criminal cases in the country); however, delays have increased over the last 2 years. The average pretrial detention throughout the country is more than 6 months. Time already served counts toward a sentence.

The failure of prison authorities to produce the accused for court hearings was more pronounced during the year and caused a significant percentage of trial postponements (see Section 1.e.). Prisoners often have their court dates postponed because they are not taken from the prison to court, or because their lawyer or witness does not appear. The authorities held some prisoners even though there were no formal charges against them and kept some prisoners jailed even after a court ordered their release; for example, a prisoner in Najayo said that he had been in prison for 5 years without being sentenced. In 1999 and 2000, this situation improved somewhat as a result of the steps taken by the former Santo Domingo District Attorney and the judiciary, in cooperation with the Director of Prisons, to introduce a prisoner registry system that focuses on providing timely trials for prisoners. However, in view of the deterioration during the year, in October the Attorney General announced the formation of a commission to investigate this problem.

In October 2000, the Attorney General proposed a program to reduce prison crowding by releasing inmates who only were held pending payment of a fine. Due to the historical inefficiency of the courts (see Section 1.e.), the granting of bail serves as the de facto criminal justice system and defendants awarded bail rarely face an actual trial. As a rule, few defendants are granted bail. Large numbers of prisoners generally are pardoned on August 16 and at the end of the year. In August the authorities pardoned 212 prisoners, and they pardoned 162 prisoners in December.

Most detainees and prisoners cannot afford adequate defense services. A draft bill to create a national public defender program remained in Congress; however, President Mejia established a national public defender system by decree. The Mejia administration made modest advances to increase the availability of free legal services to the poor by increasing the number of state-funded public defenders from 31 to 45 and increasing the number of regional public defender officers from 2 to 5.

The judicial system sometimes fails to protect the status of minors in criminal cases (see Sections 1.c. and 5).

The law prohibits forced exile, and there were no reports of its use. However, persons who credibly asserted that they were citizens sometimes were expelled to Haiti (see Sections 1.f. and 2.d.).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, attempts by public and private entities, including the executive branch, to undermine judicial independence persisted. The judiciary has received training funded by foreign technical assistance in order to improve its ability to resist such outside interference, but influence is still a problem. Court officials also began to implement new selection criteria for judges.

The National Council of Magistrates (CNM), which consists of the President, the President of the Senate, the President of the Chamber of Deputies, two at-large members designated by them (one Senator and one Deputy, from parties different than those of the presidents of the Senate and Chamber), the President of the Su-

preme Court, and one other justice designated by the Supreme Court, chooses members of the Supreme Court. During the year, the CNM met for only the second time since it was established in 1994 to fill three vacant seats on the Supreme Court. However, the selection process followed by the CNM was less rigorous, transparent, and participatory than the process conducted in 1997, leading civil society groups to assert that they had not been afforded an adequate opportunity to participate in the process; they did not know in advance who the candidates were, and they were not given the opportunity to comment on their qualifications.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are also specialized courts that handle administrative, labor, land, and juvenile matters. Under the 1994 constitutional amendments, the Supreme Court is responsible for naming all lower court judges in accordance with a judicial career law. The Government established 8 of the 25 additional courts provided for by law, including 5 courts for children and adolescents.

Military or police courts have jurisdiction over cases involving members of the security forces. These courts, while functioning similarly to criminal courts, have judges and prosecutors who are military or police officers, and the results generally are not made public. Decisions may be appealed, including to the Supreme Court. Police courts may try police officers or may remand them to civilian court jurisdiction. Military courts try military personnel charged with extrajudicial killings or other crimes. Police Chief Pedro de Jesus Candelier stated that every time an officer is involved in a questionable incident, the case goes to a police commission of superior officers for investigation. He said that if it is determined that the police officer exceeded his authority, the case is sent to the police courts or to the civilian courts, depending on the severity of the offense. However, in the over 250 extrajudicial killings committed during 2000, fewer than 10 officers have been sent to the civilian courts (see Section 1.a.). Although the police send very few cases to civilian courts, as a result of requests from the former Attorney General, District Attorney, and Justice Reform Commissioner, several officers were sent to the civilian courts in high-profile cases.

In September 2000, six civil society groups submitted an "Act of Unconstitutionality" to the Supreme Court on the issue of the legality of Law 285, which encompasses the Code of Police Justice. Civil society groups argue that police courts violate the Constitution, and that they weaken the separation and independence of governmental functions, as well as the exclusivity of the judicial function in the administration of justice. The lawsuit asks the court to rule on the constitutionality of these police courts; a decision still was pending at year's end. However, in one case, in December the Supreme Court stated that in peacetime, criminal police cases should be tried in civilian courts (see Section 1.a.).

Public pressure exists for military or police boards to remand cases involving serious crimes to civilian courts jurisdiction; however, few cases were remanded during the year. In other cases, civil authorities have requested that the police turn over their files so that cases of suspected extrajudicial killings might be evaluated independently for possible prosecution. There was little cooperation from the National Police or military in requested investigations during the year (see Section 1.c.).

The judicial system is based primarily on the Napoleonic Code. Judges, rather than juries, render all verdicts. Following the commission of a crime, the criminal process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. Sometimes they are beaten to coerce confessions (see Section 1.c.). The Constitution provides for the right not to be arrested without judicial warrant except in cases where the suspect is caught in the act; the right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right to be presented to a competent judicial authority within 48 hours of one's detention (see Section 1.d.); the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violate these rights.

The most serious and common violation of these rights occurs when police detain suspects, sometimes for many days, without allowing them access to a telephone to call family while subjecting them to frequent questioning (see Section 1.d.). Although accused persons are entitled to have an attorney present, they often are not permitted to call one or, if one arrives, the attorney is not permitted to be present during the questioning. (The police complain that the presence of attorneys interferes with their investigations.) Torture frequently is used to coerce a confession during questioning (see Section 1.c.). Under these circumstances, suspects may confess to acts that they did not commit merely to get relief from the intense questioning and the detention. The results of these interrogations frequently form the only evidence presented at the trial.

The law provides for the remedy of “amparo,” an action any citizen may bring for violation of a constitutional right, including violations by judicial officials, in accordance with the terms of the American Convention on Human Rights. The process of dispute resolution, including reconciliation, mediation, and arbitration, continues to be used as an alternative to trial and incarceration.

A large backlog of criminal cases remains in the National District and throughout the country. The Supreme Court’s plans to unclog the court dockets have been frustrated by the Government’s failure to allocate sufficient funds. Dockets are crowded with traffic infractions that should be heard in the traffic courts provided for by statute. Due to a lack of funds, the traffic courts have not been established. Other complications in clearing the backlog arise from the exhaustion of funds for transporting prisoners to court. Prisoners and human rights groups also allege that prisoners are not taken to their trials if they fail to pay bribes to the guards (see Section 1.d.). Many cases must be rescheduled when the accused does not appear. The Government has established 8 of the 15 additional courts provided for by law, including 5 courts for women and children.

Joint reform efforts between the judiciary and the Santo Domingo district attorney’s office stalled during the year. While in 2000 the congestion in the criminal system was reduced by more than 50 percent through use of community conciliation centers, those gains largely were lost during the year. It is clear that the change of 90 percent of Public Ministry officials by the Mejia administration in August 2000 resulted in a marked deterioration of the technical competence and ethical standards of prosecutors around the country. The practical effect has been a decrease in the ability to combat impunity and a deterioration in the quality of justice available to the poor.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution contains provisions against arbitrary entrance into one’s home; however, police sometimes break into private quarters without cause to search for suspects, and the authorities infringe on citizens’ privacy rights in other ways as well. Although the Government denies arbitrary use of wiretapping or other surreptitious methods to interfere with the private lives of persons or families, it has not taken necessary steps to dismantle an active private wiretapping industry.

The law permits the arrest of a suspect caught in the act of committing a crime, and police may enter a residence or business while in hot pursuit of such suspects. Otherwise, judges must authorize arrests and issue search warrants. However, the police continued to violate these requirements. Some prosecutors confessed that out of “tactical necessity to combat criminality” and “with great reluctance,” they tolerated the illegal search practices. They justified their actions by arguing that the Government has not provided sufficient resources or attention to criminal investigation and that, given the cumbersome and antiquated criminal procedures, adhering to the letter of the law would make law enforcement nearly impossible.

The Dominican Human Rights Committee reported that police carried out raids on private homes in the Santo Domingo neighborhoods of Capotillo, Gualey, Guandules, Guachupita, Los Alcarrizos, and La Zurza; police allegedly went into homes without search warrants to look for delinquents.

The police continued to detain relatives and friends of suspects to try to compel suspects to surrender or to confess (see Section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respects them in practice; however, there were some isolated exceptions.

Although citizens of all political persuasions generally exercise unhindered freedom of speech, on occasion police took action to restrict it. For example, in July police flew a helicopter to Barahona to pick up an outspoken critic of a government aqueduct project. The police detained him without charges for 48 hours before releasing him. During the National Book Fair, a booth run by a gay and lesbian group was shut down because its safe sex materials were deemed to be “pornographic.” The booth reopened after the group agreed not to distribute the safe sex literature.

Newspapers and magazines freely present a diversity of opinion and criticism; there are eight daily and seven weekly newspapers, and three weekly magazines. However, journalists and editors at times practice self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners. Numerous privately owned radio and television stations broadcast all political points of view. The Government controls one television station.

The National Union of Press Workers reported isolated instances of mistreatment of members of the press. For example, in March the head of the president’s security

team reportedly threatened three members of the press in Higüey. In July the authorities detained Esteban Rosario, producer of the program "Detras de la Verdad" and accused him of sexually assaulting a minor. Rosario claimed that the charges were brought to intimidate him. The Nation Union of Press Workers marched in protest of his treatment, and he was released.

The Government does not restrict access to the Internet.

Public and private universities enjoy broad academic freedom. The main public university, the Autonomous University of Santo Domingo, with approximately 100,000 mostly part-time students, has few restrictions on enrollment and maintains a policy of nonintervention (other than on curriculum development) in classroom affairs. The Government exerts no control over private universities, except for the preservation of standards, and teachers are free to espouse their own theories without government oversight.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice; however, there were some exceptions, and the Government at times restricted this right. Outdoor public marches and meetings require permits, which the Government usually grants; however, the police used force to break up demonstrations on several occasions throughout the year, sometimes resulting in deaths and injuries. The Government responded with force to disperse demonstrators calling for completion of public works projects, opposing evictions, opposing blackouts, supporting a strike, and calling for the removal of Police Chief Candelier, in several neighborhoods in Santo Domingo—Capotillo, Villas Agrícolas, and La Zurza. One protest in Capotillo against a killing in that neighborhood led to two deaths during the protest (see Section 1.a.).

News reports and human rights organizations criticized the manner in which police used force to disperse demonstrators during a march of the Dominican Medical Association (AMD) in February. The AMD had permission from the Secretary of Interior to march against proposed social security legislation. When the group attempted to leave the area, police fired tear gas and rubber bullets, wounding 10 physicians. The AMD sent a report on the incident to the President and received an apology; none of the officers involved were disciplined.

According to the Dominican Human Rights Committee, the police on several other occasions used force to remove squatters from state-owned lands in and near Santo Domingo.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. Political parties frequently affiliate with their foreign counterpart organizations. Professional organizations of lawyers, doctors, teachers, and others function freely and can maintain relationships with counterpart organizations.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Constitution prohibits discrimination on religious grounds, and many religions and denominations are active.

The Catholic Church, which signed a concordat with the Government in 1954, enjoys special privileges not extended to other religions. These include the use of public funds to underwrite some church expenses, such as rehabilitation of church facilities, and a complete waiver of customs duties when importing goods into the country. Attendance at Catholic Mass is compulsory for members of the National Police.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of travel, except for limitations imposed under judicial sentence, or police regulations for immigration and health reasons, and the Government generally respects these provisions in practice; however, there were some exceptions. Citizens face no unusual legal restrictions on travel within or outside the country. The police occasionally blocked roads to search cars for weapons and drugs (see Section 1.d.). Local and international human rights groups cited discrimination against Haitian migrants, whom they said were subject to arbitrary and unilateral action by the authorities. The military and police reportedly killed some migrants attempting to enter the country (see Section 1.a.).

Haitians continue to migrate in great numbers to the Dominican Republic, some legally but most without legal documents, in search of economic opportunity. Some illegal migration is assisted by the authorities, especially by police and military in the border areas, who profit from it. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally, although in significantly lower numbers than in 2000. In December the Directorate of Migration reported that it had repatriated 9,047 Haitians during the year. In addition, the armed forces carried out massive repatriations at the beginning of the year and claimed to have repatriated around 12,000 Haitians per month in the first 3 months of the year.

In some cases, the Government denied those deported the opportunity to demonstrate that they were legal residents in the country or to make arrangements for their families or property. Haitian Government officials complained that Haitians often were detained with little or no food and then deported without timely notice to the Haitian authorities. Human rights organizations and the media continued to report instances of violent treatment of Haitian migrants by the authorities, including one killing (see Section 1.a.).

In March 2000, the IACHR held a hearing in two 1997 cases of two Dominican-born children who have been denied birth registrations. The mothers of both children are Dominican citizens of Haitian descent; the legal issue is the denial of the right to register a late declaration of birth. The cases still were pending at year's end.

In August 2000, the Inter-American Court of Human Rights heard a case presented by human rights organizations, alleging that massive expulsions, repatriations, and deportations of Haitians and Dominican-Haitians by the Government violated international human rights law. The Court's decision called for "provisional measures" for the future treatment of Haitians, and requested that the Government provide more detailed information about the condition of individuals in the border shantytowns who potentially are subject to forced expulsions. It also asked for a government report every 2 months on provisional measures that were expected to be adopted to comply with the Court's decision.

The ongoing process of repatriating Haitian citizens did not diminish after the Court's decision and continued in large numbers until May, when it slowed due to an informal agreement between the Government and the Haitian Government. NGO representatives working in rural areas reported that decisions to deport often were made by lower ranking members of the security forces, sometimes based upon the racial characteristics of the deportees. The process of rounding up illegal Haitians is performed by the rank and file of the armed forces and migration officers. They approach persons who look like Haitians, including persons who have very dark complexions and fairly poor clothing. They engage them in conversation about their work and residence, mainly to check their use of Spanish and any accent they may have. If such persons speak Spanish poorly or with a noticeable accent, they generally are detained and deported.

NGO's and Catholic priests familiar with the process also have protested that children born of Haitian parents in the Dominican Republic, generally denied registration as citizens, frequently are among those deported as illegal Haitians (see Section 5).

While the Government has a policy of strictly enforcing documentary requirements and repatriation for those found lacking, it appears to have an unofficial policy that is more tolerant, which is fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. Thus, after being stopped as a suspected illegal Haitian migrant, an individual may be allowed to remain in the country despite lack of documentation if the story about work satisfies the official. NGO's have reported corruption among the military and migration border officials, and noted that these officials sometimes allow the transit of Haitian workers into the country.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum and resettlement. According to a 1984 presidential decree, an applicant for refugee status must be referred to the Technical Subcommittee of the National Commission for Refugees by the National Office of Refugee Affairs. The subcommittee, which makes a recommendation to the commission, is made up of members from the Foreign Ministry, the DNI, and the Immigration Directorate. The commission, which makes a final decision on the application, consists of the three members of the subcommittee; the legal advisor to the President; and members of the National Police, the Ministry of Labor, and the Attorney General's office.

At year's end, over 70 applications for refugee status had been filed with the Office of Refugees in the Department of Migration; the majority of which were filed by Haitians. In July the National Commission for Refugees met for the first time since 1993. The National Commission reviewed over 65 cases but did not make any decisions on pending refugee cases.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully through periodic elections. Citizens exercised this right in generally free and fair presidential elections in May 2000.

The President and all 179 members of the Senate and the Chamber of Deputies are elected freely every 4 years by secret ballot. In January the creation of a new province, San Jose de Ocoa, went into effect. The new province will have representation in Congress starting with the May 2002 elections. There is universal adult suffrage; however, active duty police and military personnel may not vote. Voting is restricted to those who can document nationality. The Central Electoral Board conducts all elections.

Congress provides an open forum for the free exchange of views and debate. The main opposition party is the PLD, which holds 4 of 30 seats in the upper house and 49 of 149 seats in the lower house. A third major party, the PRSC of former President Balaguer, contests all elections; various smaller parties are certified to contest provincial and national elections.

During the year, the National Congress considered constitutional reform legislation. On December 23, the Chamber of Deputies approved a measure that would allow presidential reelection (a provision that was abolished following then-President Joaquin Balaguer's disputed reelection in 1994) and would extend the term of the incumbent legislature for 2 years until 2004. The Senate approved the measure the following day. At year's end, these proposals were to be considered by a special National Constitutional Assembly, to be convened within 15 days after the legislation was approved. However, the Supreme Court, ruling on a challenge to the legislation brought by President Mejia, declared the legislation unconstitutional on a technicality, which essentially forced the Congress to start the process over.

The nation has a functioning multiparty system. Opposition groups of the left, right, and center operate openly. The President often dominates public policy formulation and implementation. He can exercise his authority through the use of the veto, discretion to act by decree, and influence as the leader of his party. Traditionally, the President has predominant power in the Government, effectively making many important decisions by decree. The President appoints the governors of the 30 provinces.

Women and minorities confront no serious legal impediments to political participation; however, the percentage of women and minorities in government and politics does not correspond to their percentage of the population. By law parties must reserve 33 percent of positions for women on their lists of candidates for the Chamber of Deputies and for city councils (there is no quota for Senators); however, the parties often place women so low on the lists as to make their election difficult or impossible. With the election of former Senator Milagros Ortiz-Bosch to the vice-presidency, only 1 woman serves in the 30-member Senate; women hold 24 seats in the 149-member Chamber of Deputies. Women continue to be represented in appointed positions, albeit to a limited degree. The President of the Chamber of Deputies is a woman, as are two cabinet secretaries. Women fill 5 of the 16 seats on the Supreme Court.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Nongovernmental human rights organizations generally operate freely without government interference. In addition to the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (addressing the Narciso Gonzalez case), several Haitian, church, women's, and labor groups exist.

In 2000 the Government established reform commissions for the police and armed forces that allowed limited civil society or NGO representation. The Police Reform Commission drafted legislation that was submitted to Congress, which still was pending at year's end (see Section 1.a.).

In February Congress passed a law creating a human rights ombudsman's office, although selection of the individual to fill the position still was pending at year's end. The Chamber of Deputies is to choose three candidates, and the Senate is to make the final selection of the Ombudsman. The law provides that the Ombudsman is appointed for 6 years, with authority over public sector issues involving human rights, the environment, women's issues, youth issues, and consumer protection. Congress did not approve legislation to create a special prosecutor for human rights abuses, but it is expected to be reintroduced.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits discrimination based on race and sex; however, such discrimination exists, and the Government seldom acknowledges its existence or makes efforts to combat it.

Women.—Domestic violence is widespread. NGO's estimate that 40 percent of women and children are the subject of domestic violence. Under the 1997 Law Against Domestic Violence, the State can prosecute for rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and carry fines ranging from \$30 to \$6,000 (500 to 100,000 pesos). The Secretariat of Women, as well as various NGO's, have outreach programs on domestic violence and legal rights. The Government's center in Villa Juana (Santo Domingo) for the legal support and forensic examination of abused women handles over 100 cases per day. Due to the success of this first center, the Government has opened five additional centers. There are still no shelters for battered women.

Rape is a serious problem and is believed to be widely underreported. From January through August, the Santo Domingo district attorney's office received 1,004 reports of rape or sexual violation in the National District. The penalties for committing rape are 10 to 15 years in prison and a fine of \$6,000 to \$12,000 (100,000 to 200,000 pesos). The State can prosecute a suspect for rape even if the victim does not file charges. This law also allows a rape victim to press charges against her husband without having her marriage annulled. Victims often do not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police are reluctant to handle rape cases and often encourage victims to seek assistance from NGO's.

The law prohibits sexual harassment in the workplace, but the law is not enforced, and sexual harassment is widespread.

Prostitution is illegal; however, the Government does not enforce vigorously prostitution laws, except in cases involving child prostitution and international trafficking in women and girls, which is a serious problem (see Section 6.f.). Sex tourism is a growing industry throughout the country as the number of international visitors increases. NGO's have ongoing HIV/AIDS and sexually transmitted disease prevention programs for male and female prostitutes, hotel and industrial zone workers, and other high-risk groups. The Domestic Violence Law prohibits acting as an intermediary in a transaction of prostitution, and the Government has used the law to prosecute third parties that derive profit from prostitution.

Divorce is easily obtainable by either spouse, and women can hold property in their own names apart from their husbands. Traditionally, women have not shared equal social and economic status or opportunity with men, and men hold the majority of leadership positions in all sectors. In many instances, women are paid less than men in jobs of equal content and equal skill level. Some employers reportedly give pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates report that pregnant women often are not hired.

Children.—Despite the existence of government institutions dedicated to child welfare, private social and religious organizations carry the principal burden. The Oversight Organization for the Protection of Children, created by the executive branch, is the primary government institution covering issues of child welfare. It carried out community information campaigns on children's rights, including the prevention of child abuse, child labor, and family violence. It also provided training to persons and groups providing social services to children, judicial officials, and other children's advocates. Private institutions receive 35 to 40 percent of the budget of the Oversight Organization. The Mejia Government created a new Ministry of Youth soon after the election. The Ministry operates programs on drug prevention and HIV/AIDS awareness.

The 1994 Minor's Code requires 8 years of formal education. Children of Haitian descent experience difficulties attending school due to their lack of official status. The Oversight Organization works with NGO's, law enforcement personnel, and the general public to publicize children's rights. In the National District, the Department of Family and Children, in the Office of the Prosecutor, administers the Minor's Code and arranges conciliation of family conflicts to execute court decisions with respect to child protection, and to interview children whose rights have been violated.

Abuse, including physical, sexual, and psychological, is the most serious human rights violation affecting children. The Department of Family and Children estimates that 50 percent of the children in the country are victims of some sort of abuse, although few such cases reach the courts. In the majority of the cases, the

accused is a person close to the child: A father, grandfather, uncle, brother, cousin, or close family friend. The criminal law provision on sexual abuse and intrafamily violence provides for a penalty of 10 to 20 years incarceration and a fine of \$6,600 to \$13,200 (108,000 to 216,000 pesos) for persons found guilty of sexual abuse of a minor, and up to 30 years if the victim is a family member of the abuser.

The Minor's Code contains provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. It also provides for removal of a mistreated child to a protective environment. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse is receiving increasing public attention.

The Ministry of Health gave conservative estimates that, from January through June, there were 412 deliveries by female adolescents under age 15 and 8,313 deliveries by adolescents between the ages of 15 and 19. This information is preliminary and conservative in light of 2000 statistics, which estimated deliveries by adolescents below age 15 at 1,395 and by adolescents from 15 to 19 at 26,409 for that full year. Some of these pregnancies were reported to be the result of rape or incest, and the mothers often have sexually transmitted diseases.

Sexual exploitation of children is a problem. Some in the tourist industry have facilitated the sexual exploitation of children; particular areas of concern are Boca Chica and Puerto Plata. Tours are marketed by foreigners overseas with the understanding that boys and girls can be found as sex partners. In July the National Prosecutor's Office and the Association of Hotels signed an agreement to combat the exploitation of children in the tourist industry. Journalists reported that the majority of prostitutes in brothels around the National District appeared to be between 16 and 18 years of age. There are several church-run shelters that provide refuge to children who escape prostitution. Prostitution is the principal area of exploitation of underage girls in the informal economy.

Poor adolescent girls and boys sometimes are enticed into performing sexual acts by the promise of food or clothing; sometimes they are forced into unsafe relationships with strangers by the need for money. Once involved, they may be held against their will by individuals who sell their sexual favors to others. Some of these minors are lured from their parental homes; others are already on the street.

Trafficking in children is a serious problem (see Section 6.f.).

The judicial system sometimes fails to protect the status of minors in criminal cases (see Sections 1.c. and 1.e.). In 1997 the Government began to implement the 1994 Minor's Code, laying the groundwork for a juvenile court system. The Supreme Court inaugurated the first of 11 juvenile courts in 1999 and chose judges for the other 10 courts, some of which were functioning by year's end. Although these juvenile courts are organized with a focus on rehabilitating offenders, very few social services are available for minors. In practice, juveniles are detained in excess of the time permitted by law and then are sent to jail rather than referred for rehabilitative services. There are legal advocates especially for juveniles in Santo Domingo and La Vega to provide them with representation in delinquency cases. Human rights monitors reported numerous cases of sexual abuse of minors in Najayo prison (see Section 1.c.).

Child labor is a serious problem (see Section 6.d.). It is not uncommon for minors to be put on the street to fend for themselves as younger siblings claim the parent's meager resources. Homeless children called "palomas" (doves) are frequently at the mercy of adults who collect them and put them to work begging and selling fruit, flowers, and other goods on the street. In return for their work they are given basic housing. The ages at which these children work, the hours they work, and their failure to comply with compulsory school attendance all violate the law, but the Government has not been able to combat this practice.

Persons with Disabilities.—Persons with disabilities encounter discrimination in employment and in the provision of other services. Although the law provides for physical access for persons with disabilities to all new public and private buildings, the authorities have not enforced this law uniformly. There is a Subsecretariat for Rehabilitation under the Ministry of Public Health, a recreation center for persons with disabilities in Las Caobas, and a department in the Sports Ministry to facilitate athletic competition for such persons. However, there is little consciousness of the need to make the daily lives of persons with disabilities safer and more convenient. For example, new street construction makes few provisions for such persons to cross the streets safely.

The Dominican Rehabilitation Association (ADR) has 17 affiliates throughout the country and provides services for 2,500 persons daily. The Government provides about 30 percent of the ADR's budget.

Discrimination against persons with mental illness is common, and there are few resources dedicated to the mentally ill.

National/Racial/Ethnic Minorities.—A strong prejudice against Haitians exists and disadvantages many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of African descent (see Sections 1.d. and 2.d.). The Government rarely has acknowledged the existence of this discrimination. Darker-skinned Dominicans also face informal barriers to social and economic advancement. Local human rights organizations have reported on and criticized police roundups of Haitian and Dominican-Haitian workers (see Section 1.d.).

Efforts to stem the influx of Haitian immigrants have made it more difficult for those Haitians already in the country to live peacefully. Police regulations threaten those offering transportation to illegal immigrants with confiscation of their vehicles and have discouraged taxi and bus drivers from picking up dark-skinned persons. In roundups of illegal immigrants, authorities pick up and expel darker Dominicans as well as legal Haitian residents (see Section 1.d.). For example, in May the army mistakenly deported four Dominicans after they were arrested in Higuey.

Perhaps 500,000 Haitian immigrants—or 7 percent of the country's population—live in shantytowns or sugar cane work camps, in harsh conditions with limited or no electricity, running water, or schooling. There are estimates that as many as 1 million Haitians live in the country. Human rights groups regularly charge the Government with unlawful deportations of, and police brutality toward, these legal and illegal immigrants (see Sections 1.c., 1.d., and 2.d.).

The Government refuses to recognize and document as Dominican citizens many individuals of Haitian ancestry born in the country. The Government regards undocumented Haitians living in the country as “in transit” and therefore not entitled to the constitutional right of citizenship through birth in the Dominican Republic. Since many Haitian parents have never possessed documentation for their own birth, they are unable to demonstrate their own citizenship. As a result, they cannot declare their children's births at the civil registry and thereby establish Dominican citizenship for their offspring. Some civil registry offices do not accept late declarations of birth for children of Haitian immigrants, although they routinely accept late declarations for children of Dominican parents.

Haitian parents encounter difficulties registering their children for school. Lack of documentation usually deprives children of Haitian descent of the opportunity to attend school where there is one available. Some parents fail to seek documentation due to fear of being deported. It falls to the discretion of public school principals whether children may attend, when immigrant parents have no identity cards or birth certificates to register children formally. Even when permitted to attend primary school, it is rare that the children of Haitian parents progress beyond sixth grade.

In July Secretary of Education and Vice President Milagros Ortiz-Bosch announced that all children would be allowed to enroll in school through the eighth grade, whether or not they had a birth certificate. The Secretariat of Education subsequently announced it had signed an agreement with the Central Elections Commission to facilitate the acquiring of birth certificates for parents who could produce identity cards in order that all children would have birth certificates to enroll in school. NGO's reported that higher numbers of Haitian children enrolled in school during the year.

Sometimes poor Haitian families arrange for Dominican families to “adopt” and employ their children. The adopting parents can simply register a child of any age as their own. In exchange, the parents receive monetary payment or a supply of clothes and food. They believe that this ensures their children a more promising future. In many cases, adoptive parents do not treat the adoptees as full family members and expect them to work in the households or family businesses rather than attend school. The effect is a kind of indentured servitude, at least until the young person reaches majority (see Section 6.c.). There were reports that Haitian girls between the ages of 10 and 14 were the most sought after, especially in border areas.

In April the authorities detained hundreds of Haitians after a rumor spread that some Haitian youths had burned a Dominican flag in La Romana (see Section 1.d.). The rumor also sparked a wave of violence in the general population, resulting in several injuries to Haitians.

The Government is doing little to improve the conditions of Haitian immigrants. Most social services in shantytowns are provided by NGO's and other relief organizations.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the freedom to organize labor unions, and all workers, except the military and the police, are free to

organize. Organized labor represents an estimated 10 percent of the work force and is divided among four major confederations and a number of independent unions. There are 3,506 registered unions in the country, but it is estimated that 60 percent are inactive. The 1992 Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The code calls for automatic recognition of a union if the Government has not acted on its application within 30 days. In practice, the Government readily facilitates recognition of labor organizations.

The Government generally respects association rights and places no obstacles to union registration, affiliation, or the ability to engage in legal strikes. However, enforcement of labor laws is sometimes unreliable, inhibiting employees from freely exercising their rights.

Unions are independent of the Government and generally independent of political parties. The law forbidding companies to fire union organizers or members is enforced selectively, and penalties are insufficient to deter employers from violating worker rights. There were reports of widespread discreet intimidation by employers in an effort to prevent union activity, especially in the Free Trade Zones (see Section 6.b.).

The Constitution provides for the right of workers to strike (and for private sector employers to lock out workers). Requirements for calling a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. There were no significant strikes during the year. The Government sometimes responded with force to disperse demonstrations in support of strikes (see Section 2.b.).

The 1999 case involving employees of the FTZ company D & P Handbag in Santiago still was pending before a labor court in Santiago at year's end. The 1999 case involving the Han Chang company was settled through mediation. The employees received a settlement but were not reinstated. The company did not lose its export license. The International Confederation of Free Trade Unions reported that, in the same FTZ, employers distributed a blacklist among companies to prevent these workers from finding other jobs.

In March 2000, the Caribbean Sugar Producer's Consortium laid off 150 workers at its sugar mill in Consuelo in retaliation for having formed a trade union. A court order succeeded in getting the majority of the workers reinstated, and those persons received some compensation for the period during which the workers were unemployed. Those who were not reinstated still had not received compensation at year's end.

Labor unions can and do affiliate freely regionally and internationally.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is legal and may take place in firms in which a union has gained the support of an absolute majority of the workers. Only a minority of companies have collective bargaining pacts, and the International Labor Organization (ILO) considers the requirements for collective bargaining rights to be excessive and finds that in many cases they could impede collective bargaining. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities; however, in practice, workers sometimes are fired because of their union activities.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases do make their way through the labor courts, enforcement of judgments is sometimes unreliable.

The Labor Code applies in the 40 established FTZ's, which employ approximately 200,000 workers, mostly women. Workplace regulations and their enforcement in the FTZ's do not differ from those in the country at large, although working conditions are sometimes better, and the pay is sometimes higher. There were reports of widespread discreet intimidation by employers in the FTZ's in an effort to prevent union activity. Unions in the FTZ's report that their members hesitate to discuss union activity at work, even during break time, due to fear of losing their jobs. Some FTZ companies have been accused of discharging workers who attempt to organize unions, but there also have been reports of union organizers extorting money from business owners. In the FTZ's, while there may be as many as 10 collective bargaining agreements on paper, only 3 actually are functioning. The majority of the unions in the FTZ's are affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONA) or the United Federation of Free Trade Zone Workers. FENATRAZONA estimates that only 3 percent of the workers in the FTZ's are unionized.

Many of the major manufacturers in the FTZ's have voluntary "codes of conduct" that provide for protection against forced labor, freedom of association, freedom from

discrimination, and prohibit the use of child labor. They also call for a workplace that is safe and healthy. However, workers rarely have heard of such codes, or the principles they set out. Mandatory overtime is a common practice, and it is occasionally enforced through locked doors or loss of pay or jobs for those who refuse (see Section 6.c.).

c. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, including that performed by children; however, such practices still exist in the adult worker population and among children in the informal sector. Young children “adopted” by families work under a kind of indentured servitude, and homeless children are made to beg by adults (see Section 5). Trafficking in women and children, particularly for purposes of prostitution, is also a problem (see Section 6.f.).

The FENATRAZONA noted that mandatory overtime in the FTZ factories is a common practice. Workers also reported that their employers locked factory doors with chains so they could not leave, and took incentive pay away from or fired those who refused to work overtime. For example, many companies use an incentive system in which a team of 12 to 15 persons is given a quota to fill by the end of the week, in order to receive extra benefits. Most teams are unable to fill the quota to receive the benefits and are not paid overtime pay for the extra time they put in to attempt to fill the quota. Union officials state that newly hired workers are not informed that overtime is optional.

The Association for the Development of Women and the Environment reported an increase of forced adult labor in the sugar industry in the shantytowns of La Jagua, Sabana Grande de Boya, and Los Jovillos. Field guards reportedly kept workers’ clothes and documents to prevent them from leaving. Employers also withheld wages to keep workers in the fields.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Code prohibits employment of children under 14 years of age and places restrictions on the employment of children under the age of 16; however, child labor is a serious problem. Restrictions for children between the ages of 14 and 16 include limiting the daily number of working hours to 6, prohibiting employment in dangerous occupations or in establishments serving alcohol, and limiting nighttime work. A company could face legal sanctions and fines if caught employing underage children. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs. A national child labor survey released in October reported that an estimated 17.7 percent of children between the ages of 5 and 17 are engaged in some form of child labor.

The high level of unemployment and lack of a social safety net create pressures on families to allow or encourage children to earn supplemental income (see Section 5). Tens of thousands of children begin working before the age of 14. Child labor takes place primarily in the informal economy, small businesses, clandestine factories, and prostitution. Conditions in clandestine factories are generally poor, unsanitary, and often dangerous. The Government has attempted to eliminate the use of children for cutting sugar cane; however, there are still reports that poor Haitian and Dominican children accompany their parents to work in the cane fields, with the tacit acceptance of sugar companies. Also, human rights groups report an increase in the number of undocumented Haitian 14- and 15-year-olds working in the cane fields.

Sexual exploitation of children is a problem (see Section 5).

On December 15, 2000, the Government ratified ILO Convention 182 on elimination of the worst forms of child labor. The Ministry of Labor, in collaboration with the ILO’s Program on the Eradication of Child Labor, and other international labor rights organizations, has implemented programs to combat child labor. These include the national child labor survey and a program to remove children from dangerous agricultural work in San Jose de Ocoa, Constanza, and Azua. The Constanza program removed over 550 children, twice as many as the targeted number, from work in hazardous agriculture, and placed them in schools.

The law prohibits forced or compulsory labor by children; however, such practices persist in the informal sector, and trafficking in girls is a serious problem (see Sections 6.c. and 6.f.). There were no reports of forced child labor in the formal sector.

e. Acceptable Conditions of Work.—The Constitution empowers the executive branch to set minimum wage levels, and the Labor Code assigns this task to a national salary committee. Congress also may enact minimum wage legislation. The minimum monthly salary is \$152 (2,490 pesos) in the FTZ’s and \$208 (3,416) outside the FTZ’s. The minimum wage does not provide a decent standard of living for a worker and family. It only provides approximately one-third of the income necessary to sustain an average family. The national poverty level, which is based on a basket

of goods and services consumed by a typical family, is \$402 (6,607 pesos) per month for a family of five.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek is Monday through Friday plus a half day on Saturday, but longer hours are common. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week. Overtime is mandatory at some firms in the FTZ's (see Section 6.c.).

Conditions for agricultural workers are poor, especially in the sugar industry. Most sugar cane worker villages lack schools, medical facilities, running water, and sewage systems, and have high rates of disease. On sugar plantations, cane cutters usually are paid by the weight of cane cut rather than the hours worked. Employers often do not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dries and weighs less.

When the cane is weighed, workers are given tickets indicating the weight of cane cut (often rounded in favor of the employer) and the amount of money due. These tickets, issued to a specific person but payable to the bearer, may be turned in to the employer and redeemed for cash every 2 weeks. Many cane cutters earn less than \$4.00 (60 pesos) per day. Because workers earn so little and sometimes cannot wait until payday to redeem their tickets, an informal barter system has evolved in which the tickets also are used to purchase items at private stores located on the plantations. These private stores make change by giving back a combination of tickets and cash. However, it is not unusual for these stores to retain 10 percent of the cash due a customer.

The Dominican Human Rights Committee and shantytown residents report that conditions of work for cane workers have deteriorated since the industry was privatized in 1999. Workers reportedly are paid less, work longer hours, and have fewer benefits, according to the committee. While child labor in the sugar industry had decreased significantly, according to human rights advocates and labor federations, it still exists and increased slightly during the past year (see Section 6.d.).

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. During the year, Congress passed a new Social Security law that expanded coverage of the social security programs. Approximately 13,000 employees work in the IDSS bureaucracy to support fewer than 20,000 retirees.

Both the IDSS and the Ministry of Labor have small corps of inspectors charged with enforcing standards. The Secretariat of Labor has 250 inspectors who seek to improve sanitation, health care, and safety for workers. Included in this number is a smaller, specialized corps (eight in Santo Domingo) of inspectors for the FTZ's. Inspector positions customarily are filled through political patronage, and bribes from businesses are common. In practice workers cannot remove themselves from hazardous working situations without jeopardizing employment.

f. Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in women and children from, to, and within the country remains a serious problem. Women 18 to 25 years of age are at the highest risk for being trafficked. According to a report released in July by the International Organization for Migration (IOM), principal destination countries are in Europe and Latin America, including Spain, Italy, the Netherlands, Switzerland, Germany, Greece, Belgium, Curacao, San Martin, Aruba, Panama, Venezuela, and Argentina. Women are trafficked to the United States, although in smaller numbers. Within the country, there is a serious problem of prostitution of minors, primarily in the tourist areas (see Section 5). Women and children also are trafficked from Haiti and often are forced to beg in the streets.

Poor Haitian and Dominican parents sometimes arrange for more prosperous Dominican families to "adopt" their children, in exchange for money or goods; such children often are expected to work long hours and are vulnerable to sexual abuse (see Section 5).

The Directorate of Migration estimates that there are approximately 400 rings of alien-smugglers, traffickers, and purveyors of false documents operating within the country. These individuals profit by facilitating the trafficking of women to Europe and the Eastern Caribbean under false pretenses and for purposes of prostitution.

The Director of Migration stated that individual members of Migration, the armed forces, or National Police who facilitate, condone, or are complicit in trafficking activities or migrant smuggling are investigated and fired or prosecuted when appropriate. NGO's have reported corruption among the military and migration border officials, and noted that these officials sometimes cooperate with the transit of Haitian

workers into the country to work on sugar plantations and construction sites (see Sections 2.d. and 6.d.).

In 1996 the Government created the Interinstitutional Committee for the Protection of Migrant Women (CIPROM), which is composed of representatives from government entities and NGO's. CIPROM was inactive until February, when it began meeting regularly. In April the Secretary of Women signed an agreement with the IOM to help them design a comprehensive plan to combat trafficking. During the year, CIPROM and the IOM began an information campaign aimed at potential victims of traffickers.

One NGO, the Center for Integral Orientation and Investigation (COIN), counsels women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other issues including the dangers of trafficking, forced prostitution, and domestic servitude. The program also provides services to returning women. COIN administers the Center for Health and Migration Information for Migrant Women that carries out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude.

Several laws prohibit trafficking in persons. According to the law against alien smugglers, persons involved in planning, financing, facilitating, or organizing the illegal transportation of persons into or out of the Dominican Republic shall be imprisoned for a period of 3 to 10 years and fined \$600 to \$3,000 (10,000 to 50,000 pesos). The law further states that if death results from the illegal transportation of persons, the smuggler shall be imprisoned for a period of at least 20 years, but not to exceed 30 years. In addition, a law specifically targets trafficking of persons for prostitution. The law imposes jail terms of 2 to 10 years and fines of up to \$6,000 (100,000 pesos) for traffickers involved in the promotion of prostitution. Laws dealing with domestic violence, as well as the Minor's Code, create protection under both civil and criminal law against particular situations that may be conducive to, or acts that may be a part of, the traffic in persons, whether female or male, minors or adults. The law also prohibits acting as an intermediary in a transaction of prostitution, and the Government has used this law to prosecute third parties that derive profit from prostitution.

The Government prosecuted several trafficking rings during the year. In April the National Department of Investigations dismantled a trafficking ring that was trafficking women to Curacao and San Martin. The women, who reportedly paid from \$420 to \$600 (7,000 to 10,000 pesos) for visas and transport, were held for prosecution. In May the police shut down a prostitution ring in Boca Chica, arresting seven foreigners.

The Oversight Organization for the Protection of Children coordinates the approaches of various agencies involved in combating trafficking in children. This organization works with the Attorney General's office, the Public Health Ministry, Migration, and other agencies. In the National District, the Department of Family and Children in the Office of Public Prosecutor focuses on identifying children who are victims of abuse and prosecutes offenders under heightened penalties contained in the domestic violence law.

A primary concern of the Oversight Organization is preventing abuse of the child adoption process by those intending to sell or exploit children through prostitution or child pornography. The Department of Family and Children is very concerned about kidnappings, especially of infants, for sale to foreigners who deliberately have sidestepped legal formalities—including those of their own country. The Government seeks to protect children from being victimized by those who would adopt them. Many children leave the country as adoptees, but government officials have made such adoptions much more difficult and, they hope, have prevented would-be traffickers from abusing the system.

The Government does not have services for assisting trafficking victims such as temporary or permanent residency status, relief from deportation, shelter, or access to legal, medical and psychological services. Trafficking victims detained generally are deported. COIN provides an information hot line and offers psychological, legal, and health counseling to returning women.

ECUADOR

Ecuador is a constitutional republic with a 123-member unicameral legislature that was chosen in free elections in May 1998. In January 2000, following an attempted coup by protesters, indigenous dissidents, and members of the military, Vice President Gustavo Noboa assumed the presidency and restored order. The Na-

tional Congress is composed of five major parties and seven smaller parties, spanning the spectrum from center-right to extreme left. The judiciary is constitutionally independent, but in practice is inefficient and susceptible to outside pressure.

While the civilian authorities generally maintain effective control of the security forces, the military enjoys substantial autonomy, which is reinforced by revenues generated from civil aviation, shipping, and other commercial sectors. The military's right to receive royalties from oil exports expired at the end of the year. The National Police are responsible for domestic law enforcement; maintenance of internal order falls under the civilian Ministry of Government and Police. In February President Noboa declared a 2-week national state of emergency due to protests by indigenous people; this gave him the authority to use troops to monitor and react to public protests. Throughout the year, the military continued to supplement the police on an ad hoc basis. Some police and members of the military continued to commit human rights abuses.

The country's population is estimated at 12,900,000. The economy is in the second year of recovery from a severe economic recession. The economy is based on private enterprise, although there continues to be significant government involvement in key sectors such as petroleum, utilities, and aviation. The principal exports are oil, bananas, shrimp, and cut flowers, which, together with emigrant remittances and tourism, are the country's leading sources of foreign income. Most citizens are employed in the urban informal sector or as rural agricultural workers; rural poverty is extensive and underemployment is high. There is severe maldistribution of income. According to a study conducted in July, approximately 71 percent of the citizens live in poverty and of those, 30 percent are indigent, with an almost total lack of resources. An estimated 91 percent of the poorest households go without some basic food staple, and more than half forego needed medical care. Most of the population has a low standard of living, as evidenced by a per capita gross domestic product (GDP) of \$1,353. Inflation for the year was approximately 22 percent.

The Government's human rights record was poor in a number of areas and serious problems remain. There were credible reports that police committed extrajudicial killings. Security forces killed several protesters during demonstrations. There was at least one report of a disappearance attributed to police. Police tortured and otherwise mistreated prisoners and detainees, frequently with impunity. Prison conditions remained poor. In September Congress increased the penalties for serious offenses in an attempt to curb rising crime. Persons often are subject to arbitrary arrest, and prolonged detention is a problem. Once incarcerated, persons without lawyers may wait years before being tried. More than one half of the detainees in jail have not been sentenced formally. The Government failed to prosecute and punish human rights abusers. The legal and judicial systems are politicized, inefficient, and sometimes corrupt. The Government began to implement a new criminal procedures code intended to strengthen the justice system. A degree of self-censorship in the media continued. The police used tear gas and other methods to quell protesters. The Government briefly declared a national state of emergency at the beginning of the year that limited freedom of assembly and movement. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians remain problems. The Government entered into negotiations with indigenous groups following widespread protests in January and February. The Government continued to order public employees in nationwide strikes back to work. Child labor is a problem, and there were reports of trafficking in children. The media and human rights organizations became increasingly concerned about spillover effects, including increased crime and refugees, from the continuing violence in neighboring Colombia. Mob violence and vigilante killings persist.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of politically motivated killings; however, there continued to be credible reports that police, security forces, and semiofficial entities such as neighborhood brigades committed extrajudicial killings. (Neighborhood brigades or "juntas" are civic defense groups organized by the National Police to provide an anticrime presence in neighborhoods. Their members are not authorized to carry firearms, but often do.) Through September the Ecumenical Committee for Human Rights (CEDHU) reported 25 extrajudicial killings. In some instances, there was insufficient evidence to reach a conclusion as to what occurred; however, the killings sometimes exhibited a suspicious pattern, especially with respect to a number of unidentified bodies found along the highway around the perimeter of Guayaquil.

Between January 29 and February 7, as many as nine persons died in clashes around the country between indigenous-led protesters and security forces (see Sections 1.c., 2.b., and 5). On February 5, in Tena, troops from the army's Pastaza Brigade fired at approximately 3,000 demonstrators crossing the Napo River bridge on their way to take over the airport. Carlos Cabrera and Juan Arias died of bullet wounds and a number of others were injured. The protesters maintained that they were fired upon without provocation. The soldiers claimed that the protesters attacked them with guns and dynamite. The protesters largely destroyed Tena air base.

On February 27, in Guayaquil, Police Sub-Lieutenant Rivera and his partner Officer Yepez picked up Joffre Aroca for vagrancy during a routine "Plan Mas Seguridad" patrol. (Plan Mas Seguridad is an anticrime initiative begun by Guayaquil Mayor Jaime Nebot in 2000.) Rivera took Aroca behind Monumental Stadium, where a witness heard a shot fired; Yepez remained in the vehicle. Rivera reported that the prisoner had escaped and that he had fired a warning shot but Aroca's body was found the next day with a bullet in his back. Aroca's parents lodged a complaint and police were investigating at year's end. Both policemen were charged; however, they remained on duty at year's end.

On July 26, two infants in incubators at the Isidro Ayora maternity clinic in Quito allegedly died from tear gas inhalation following a nearby confrontation between security forces and striking health workers; however, the cause of death (natural or as a result of the tear gas) was not determined conclusively (see Sections 1.c., 2.b., and 6.a.).

On August 22, 22-year-old lieutenant Julio Robles died during a military hazing event known as a "baptism," which took place at the B1-21 Infantry Battalion in Macara. Robles' death appeared to have been caused by a combination of excessive alcohol consumption and a broken neck. His body showed signs of other physical abuse. The Defense Minister met with Robles' family and promised a full investigation. Three army officers and enlisted men subsequently were convicted and sentenced for their role in this killing, while five others originally implicated have returned to duty.

At least 26 mostly-unidentified bodies were discovered separately along the highway around Guayaquil during the year. Some human rights groups allege that the Mayor's anticrime Plan Mas Seguridad and the Intervention and Rescue Group (GIR) police or the semi-autonomous Guayas Transit Commission police (CTG) are involved in these killings; others assert that criminals were responsible. No public investigation was undertaken in these cases or in the cases of the bodies found along the highway in 2000.

On March 19, a police court convicted and sentenced to 2 years' imprisonment an officer involved in the 1999 shooting death of Mickey Mendoza. Previously the police court had convicted the officer of intentional homicide, but the conviction later was reduced, without explanation, to unintentional homicide.

The investigation continued into the 1999 killings of Jaime Hurtado Gonzalez, a member of Congress from the far-left Popular Democratic Movement party; Pedro Tapia (Hurtado's alternate in the Congress); and Wellington Borja near the Supreme Court in Quito. No charges were pending at year's end.

There was no disposition of the 1998 case of the kidnaping and killing in Quito of Saul Filormo Canar Pauta, a leader of the Ecuadorian Confederation of United Working Class Organizations. The investigation remains active but progress appears unlikely. The authorities suspect that he may have been killed by private landowners in retaliation for his activities in organizing land invasions by squatters.

On June 4, in Carchi Province, a group of approximately 20 uniformed and armed men attacked an armored car. One of the assailants was captured, one was killed, and one soldier was injured. Unconfirmed reports indicated that the assailants were Colombian guerrillas.

On July 4, a predawn assault by unidentified gunmen against a police station in Lago Agrio ("Nueva Loja") left two police officers dead. Media reports speculated that the assailants were Colombian guerrillas retaliating against the earlier arrest of one of their leaders. Government officials reported 54 homicides in the town of Lago Agrio between January and September. Most killings were execution style and were blamed on conflicts between rival Colombian groups who had entered the country.

There also were cases of mob violence that resulted in lynchings and burnings of suspected criminals (see Section 1.e.). In June an indigenous group calling itself the "Justicieros" began to "arrest and judge" criminal suspects. Mobs or vigilante groups killed 24 crime suspects in the first 9 months of the year; individual lynchings continued to occur in all parts of the country, especially in indigenous communities in remote areas of the highlands. For example, on March 27, in the village of

Laguatan, members of the local “Juntas del Campesinado” broke into the home of Patterson Manzano and accused him of the murder of junta member Eudoro Camacho. The group then beat Patterson Manazo, Rovinson Manzano, and Wilma Barragan to death and burned the house. Police in nearby Guaranda pressed charges against junta suspects, but the case appeared to be stalled at year’s end.

b. Disappearance.—There were no reports of politically motivated disappearances; however, there were at least two disappearances attributed to the police.

On November 6, 2000, police detained Elias Elint Lopez Pita at a police checkpoint in Ambato as he was traveling in a bus to Esmeraldas Province. According to the bus driver, three policemen stopped the bus, asked for the passenger list, selected Lopez, and took him away. According to Amnesty International, witnesses reported that Lopez was taken to the main police station in Ambato, where he was last seen blindfolded and handcuffed, showing signs of having been beaten. When Mr. Lopez’s wife entered the police station, the officers reportedly denied detaining her husband. She then went to the Provisional Detention Center, where Luis Alberto Shinin Lazo told her that he had been held in detention with Elias Lopez. On November 7, 2000, the prosecutor investigating the “disappearance” of Elias Lopez heard the testimony of Shinin Lazo, who was then in police custody. After Shinin Lazo was released on November 14, 2000, he reportedly was abducted by unidentified gunmen and taken to the outskirts of Ambato, where he was shot and thrown over a cliff. After he was rescued by nearby persons, he was admitted to the hospital in Guaranda, where he said that police from Ambato had inflicted his injuries in retaliation for his testimony. On November 20, 2000, six armed men kidnaped Shinin Lazo from the hospital. He was not seen or heard from thereafter. The investigation in the case was completed, and at year’s end seven police officers were in prison awaiting trial.

Criminal kidnaping for profit continued to be a problem. By mid-year, the police antikidnaping unit, UNASE, reported that kidnapings and attempted kidnapings had increased 200 percent compared with the previous year. For example, in October 2000, unidentified, armed individuals kidnaped a group of foreign oil workers near Pompeya in Orellana province. In late January, the kidnapers killed one hostage. On March 1, the remaining seven oil workers were released after a multi-million-dollar ransom was paid. In June police in Colombia arrested more than 50 suspects connected with the case.

On June 16, a well-known cattle rancher, Juan Villarreal, and his son Edwin were kidnaped on the outskirts of Tulcan and released after a ransom was paid. It was the second time in 3 years that Villarreal was kidnaped. Two days later, another kidnaping was reported in nearby Mira County, but the family and police refused to provide details. There are numerous reports of extortions and threats of kidnaping (known as “vacuna”) of ranchers, farmers, and businessmen throughout Carchi province. Many victims attribute the incidents to Colombian armed groups.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and similar forms of intimidation and punishment; however, the police continued to torture and abuse suspects and prisoners, usually with impunity.

The CEDHU published detailed reports on suspects who reported being tortured by specific police officers. By August it had registered 9 cases of torture, involving 10 victims, and 62 complaints of “physical aggression” toward 808 persons by police or security forces. In most cases, the police appeared to have abused such persons during investigations of ordinary street crime. The victims reported that the police beat them, burned them with cigarettes, applied electric shocks, or threatened them psychologically. In 2000 the authorities registered 33 complaints of some form of torture by security forces, and human rights nongovernmental organizations (NGO’s) received at least 135 reports of incidents involving physical mistreatment.

For example, on February 13, members of the National Police and the Air Force Combat Command in Guayaquil accused warehouse clerk Jose Ramires of theft. He was held incommunicado for 4 days, during which time he suffered beatings and electric shocks. He later was released. There was no investigation and no charges were brought against either Ramires or the officers who committed the abuse.

Security forces also used excessive force during demonstrations (see Sections 1.a. and 2.b.). In late January and early February, there were significant and widespread indigenous protests (see Section 5). Police used tear gas and other methods to quell protesters. On January 30, more than 24 protesters were injured in a confrontation with police in Quito; on January 24, soldiers clearing a roadblock on the Pan American Highway fired shots that wounded at least two protesters (see Section 2.b.). Between January 29 and February 7, as many as nine persons died in clashes between indigenous-led protesters and security forces (see Section 1.a.). On July 26, in Quito, police blocked some 3,000 public health strikers who were at-

tempting to make their way to the Presidential Palace. In the ensuing disturbance, Special Operations Group troops fired tear gas canisters that wounded four medical workers. At nearby Isidro Ayora maternity clinic, 36 babies were affected by the tear gas; two of the infants allegedly died as a result (see Section 1.a.).

Police corruption is also a problem throughout the country. In June Guayas Police Commander Colonel Marco Cuvero stated that 83 police officers had been fired over the previous 9 months for infractions related to human rights violations or corruption. In December prosecutors alleged that former Guayas Police Chief and Intelligence Director General Abraham Correa had close ties to drug trafficker Carlos Hong.

There were no reported developments in the cases of police officer Freddy Veloz and off-duty corporal Miguel Noriega who in 2000 had been accused, respectively, of rape and of shooting and wounding another person.

Conditions in prisons and detention centers generally are poor. Prisons in the tropical coastal areas tend to be worse than those in the temperate highlands. In 1999 the National Directorate for Social Rehabilitation (DNRS) published a report that indicated that there were a total of 8,520 inmates incarcerated in facilities originally designed to hold 5,964 prisoners. For example, the Tomas Larrea prison in Portoviejo was built in 1930 to hold 150 inmates, but in 2000 its population exceeded 300. It has never been repaired or expanded and has many tunnels, which contributed to some of the 30 successful escapes since 1970. Overcrowding also is a chronic problem elsewhere. The 1999 DNRS report stated that traumatic injuries, reportedly inflicted by fellow inmates, caused 65 percent of those deaths. It attributed the others to illness and drug use. The prison authorities routinely investigate deaths in custody. During the year, a number of prisons experienced serious outbreaks of disease, including meningitis. In September Congress increased the penalties for serious offenses in an attempt to curb rising crime. For example, the maximum penalty for rape in which death occurred was increased to 35 years. Prison officials fear the measures may exacerbate overcrowding. Pretrial detainees are not held separately from convicted prisoners. There are no separate facilities for repeat offenders or dangerous criminals, nor are there effective rehabilitation programs. New prisons have not been constructed due to the lack of financial resources. However, during the year, the amount allocated for prison rations increased from 40 cents to 70 cents per inmate per day. In 1998 a total of 26 inmates died in prison.

The Constitution requires that prisoners charged with lesser offenses (those carrying a maximum sentence of 5 years or less) and who have been detained for more than 1 year without a trial obtain their freedom immediately. In January 2000, the DNRS reported that 553 inmates had been released since the constitutional provision entered into force in 1999. In August 2000, a law went into effect that resulted in the release or in the reduction of sentences (by 1 to 2 years) of 2,947 prison inmates for humanitarian reasons by the end of 2001.

On September 3, prison guards and workers began a 6-week strike for higher wages and a danger bonus. Prisoners supported the guards' demands. The DNRS made some concessions to the Federation of Penitentiary Guides, but the bonus issue remained unresolved when the Government ordered the guards back to work (see Section 6.a.).

At year's end, women constituted 9 percent of the total prison population. Women are held separately from men, and conditions are notably better in the women's prison in Quito than in other facilities. There also are separate facilities for juveniles. Children in these facilities often face abuse. For example, at the Imbabura Rehabilitation Unit for Minor Offenders, adolescents routinely are beaten, shocked with stun guns, and subsist on rations worth about 55 cents per day.

The Government permits prison visits by independent human rights monitors. The National Police Directorate Specializing in Children (DINAPEN) exists as a monitoring group for preventing abuse in prisons.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution and the Penal Code provide that no person may be deprived of liberty without a written order from a governmental authority; however, the authorities often violate these legal protections in practice, and arbitrary arrest and detention remain problems. The law requires the authorities to issue specific written arrest orders within 24 hours of detention—even in cases in which a suspect is caught committing a crime—and the authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may challenge the legality of their detention by petition within 48 hours of their arrest, but in practice few such petitions are brought forward. The senior elected official (usually the mayor) of the locality in which the suspect is held reviews any such petitions. Regardless of the legality of a detention, a prisoner may be released only by court order. In some cases, detainees who are unaware of this, or who do not have the funds to hire a lawyer, may remain in pris-

on for an extended period of time before being released. Bail generally is not available, and the law prohibits it in cases of narcotics and major offenses (i.e., offenses that "affect or put at risk" the public, punishable by 3 to 35 years imprisonment).

Human rights organizations continued to report occasional cases of incommunicado detention, although the law prohibits this practice (see Section 1.c.). Even when the police obtain a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. Preventive detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented. The new Criminal Procedures Code limits immediate detention to 48 hours for suspicion of committing a crime and establishes preventive detention of 6 months for minor offenses and 12 months for major offenses once trial has begun.

There were mass arrests during the State of Emergency in early February. Most detainees were released on February 7.

The Constitution prohibits forced exile, and the Government does not use it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice the judiciary is susceptible to outside pressure and corruption. Despite continuing efforts to depoliticize and modernize the court system, the judiciary continues to operate slowly and inconsistently. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure, or in some cases, the payment of bribes. A survey during the year by the Latin American Corporation for Development revealed that 54 percent of judges believed that other judges were corrupt. There are lengthy delays before most cases come to trial.

The judiciary is composed of the Supreme Court, superior circuit courts, other courts and tribunals that hear cases in accordance with the Constitution and other laws, and the Judicial Council, which is charged with administering the court system and disciplining judges. There also are military and police tribunals that have the same status as circuit courts, while criminal, provincial, and cantonal (county) courts serve as courts of first instance.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court does not announce verdicts or punishments, reinforcing the strong impression that the police are immune from prosecution. The 1998 Constitution placed both police and military justice under the control of the Supreme Court. However, the three systems have not yet been integrated, although weak efforts are underway to do so.

The Supreme Court that took office in 1997 publicly recognized the shortcomings of the judicial system and pledged to improve the quality and training of judges. In 1998 the Supreme Court supervised the selection by open competition of all appellate judges. Between January and October, the Judicial Council that took office in 1998 delivered 556 sanctions, penalties, fines, or warnings to various judges. There are over 55,000 laws and regulations in force. Many of these are conflicting, and judges have been known to pick and choose from archaic legislation in an arbitrary or capricious manner. The resulting lack of clear rules contributes to what widely is referred to as "juridical uncertainty."

The failures of the justice system contributed to a growing number of cases in which communities took the law into their own hands. There continued to be reports of lynchings and burnings of suspected criminals by citizens and quasi-official groups (see Section 1.a.). These occurred particularly in indigenous communities and poor neighborhoods of major cities, where there is little police presence.

The law provides for due process rights for criminal defendants, but the authorities, including the Chief Prosecutor's office, often did not observe these rights in practice. By law, the accused is presumed innocent until proven guilty and defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice there are almost no attorneys available to defend the large number of impoverished suspects.

Trial is supposed to begin within 15 to 60 days of the initial arrest; however, in practice initiation of the trial phase can take years. One half of all incarcerated persons have not been tried and sentenced. Accused narcotics traffickers and suspects in major crimes cannot obtain bail or be released on their own recognizance.

In 1999 Congress passed a new Criminal Procedures Code. Then-President Jamil Mahuad proposed changes in December 1999, which Congress accepted in January

2000. The new Code went into effect in July, and fundamentally changed the criminal justice system from an inquisitorial system to an accusatorial system. Under the new system, the Chief Prosecutor's office is to investigate and prosecute crimes, while the role of judges is to become neutral arbiters presiding over oral trials. Previously, judges and their staffs investigated crimes with the help of the police while the public prosecutors ("fiscales") monitored the judges' progress. Under the new system, prosecutors have wide discretion in deciding which cases can proceed. The judiciary now hears criminal cases in oral trials, compared with the previous slow, predominantly written inquisitorial system. The National Police continue to work as investigators, but now are under the direction of the prosecutors. There are no juries in the justice system. The new code is intended to strengthen the justice system by improving due process and enhancing the rights of the accused through measures such as habeas corpus and limits on preventive detention (see Section 1.d.). However, despite the abrupt change in roles, functioning, and procedures of the criminal justice system, the Government has not yet organized a central coordinating body to plan and direct training for the components of the criminal justice system, and adequate resources, both in supplies and training, were not available for the newly expanded role of the Prosecutor's office.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions. Wiretapping is illegal but it does occur.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for the freedoms of speech and of the press, and the Government generally respected these provisions in practice; however, there were some significant exceptions. There are frequent charges of slander and libel brought by and against public figures, but few resulted in final decisions or judicial relief. Some self-censorship of the press continued.

There is a free and vigorous press. Ownership of the media is broadly based, and editorials represent a wide range of political views and often criticize the Government. However, some degree of self-censorship in the print media occurs, particularly with respect to politically sensitive issues or stories about the military and its related industries. In addition, most elements of the media are influenced by economic considerations and tend to reflect the narrow, regional interests of their owners.

All of the major media organs—newspapers, radio, and television—are locally and privately owned, except for one government-owned national radio station. The law limits foreign investment in broadcast media. Using a law promulgated by the last military regime that requires the media to give the Government free space or broadcast time, the Government can and does require television and radio to broadcast government-produced programs featuring the President and other top administration officials.

According to the Inter American Press Association, charges of "gross libel not involving falsely accusing a person of a crime" were brought against two journalists during the year: Malena Cardona was fined and Wilson Cabrera was sentenced to 3 months' imprisonment.

In July a previously unknown group called "Legion Blanca" began an e-mail campaign of intimidation and death threats against human rights organizations, journalists, and civil society leaders. The Government still was investigating at year's end.

The Constitution provides for academic freedom, and the Government does not restrict this right in practice.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of free assembly for peaceful purposes, and the Government generally respected this right in practice; however, there were some limits, and security forces used force to quell some demonstrations, resulting in deaths and injuries (see Sections 1.a. and 1.c.). Public rallies require prior government permits, which generally are granted, although exceptions occur.

In late January and early February, there were significant protests around the country by indigenous groups (see Sections 1.a., 1.b., and 5). At the end of January, police used tear gas against a protest in Quito by an indigenous group. On January 30, authorities cut off water and telephone service to approximately 4,000 indigenous protesters camped out at the Salesian Polytechnical University in Quito. On February 2, President Noboa decreed a nationwide state of emergency that lasted 2 weeks and limited freedom of assembly. In February security forces in Tena, Tungurahua, and Quito shot and arrested protesters, some of whom were armed

(see Section 1.a.). The police said that they had to shoot to protect themselves from the threatening actions of the protesters. Numerous other labor and student demonstrations took place without major incident in the capital and the outlying regions during the year. Protesters often blocked roads. In general, the security forces intervened in demonstrations only when there was violence against bystanders or destruction of property. Police in Quito used tear gas in January, February, March, and July to control demonstrators and strikers (see Sections 1.a. and 6.a).

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Government does not require religious groups to be licensed or registered unless they form NGO's that engage in commercial activity. Approximately 90 percent of the population consider themselves to be Roman Catholic, although most citizens either do not regularly practice the religion or follow a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allows missionary activity and religious demonstrations by all religions. The Government does not permit religious instruction in public schools; private schools are permitted to teach religion, as are parents in the home. There are no restrictions on publishing religious materials in any language.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice; however, frequent military and police roadblocks often present problems for travelers using public transportation, especially at night. Protesters often blocked roads (see Section 2.b.) The Government requires all citizens to obtain exit visas when traveling abroad, which are granted routinely. Military and minor applicants must comply with special requirements.

The law includes provisions for granting refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

The Foreign Ministry reported that at year's end there were 1,798 documented refugees in the country and 2,479 persons awaiting determination of their status. The authorities denied 680 applications. More than 90 percent of these refugees and applicants are Colombians; according to the UNHCR, the majority of displaced Colombians are impoverished peasants fleeing fighting, but some are adolescents escaping forced recruitment by illegal armed groups in Narino and Cauca. Most displaced persons still come from Putumayo and transit Sucumbios, Quito, and Tulcan to return home. The Government and the UNHCR have developed a plan to cope with a potential refugee influx into Sucumbios province of up to 10,000 persons.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. However, on January 21, 2000, members of the military joined protesters, including indigenous dissidents, to force President Jamil Mahuad from office. After a brief period of confusion, during which the leaders of the coup announced the dissolution of the three branches of government and the formation of a "People's Parliament," on January 22, 2000, then-Vice President Gustavo Noboa assumed the presidency and restored order. Presidential and legislative elections are scheduled for the fall of 2002.

Deputies are elected to Congress for 4-year terms. The distribution of seats among the 123 members includes: Social Christian Party (23), Ecuadorian Roldosist Party (22), Popular Democrats (20), Democratic Left (16), National Independent Movement (11), Patchakutik (5), six smaller parties (11), and 15 independents.

Voting is mandatory for literate citizens over 18 years of age and voluntary for illiterate citizens. The law does not permit active duty members of the military to vote. The Constitution bars members of the clergy and active duty military personnel from election to Congress, the presidency, or the vice presidency. The Constitution provides that if a political party fails to garner a minimum of 5 percent of the votes in two open elections, the party must be eliminated from the electoral registry. Twelve parties are registered.

On occasion the judiciary has acted to limit President Noboa's power. For example, the Constitutional Tribunal struck down the President's attempt to raise the value-added tax.

No specific laws prevent women or minorities from attaining leadership positions; however, few women, indigenous people, or Afro-Ecuadorians occupy senior positions in government. The percentage of women and minorities in government or politics does not correspond to their percentage of the population, although they have made gains. Women hold 20 of 123 seats in Congress, the largest proportion of seats held by women in the country's history, and there are two female cabinet ministers (Environment and Tourism).

The indigenous movement, which previously shunned traditional politics, formed the electoral movement "Pachakutik" and ran candidates for national, provincial, and local office in the 1996, 1998, and 2000 elections. A Pachakutik Congresswoman, Nina Pacari, formerly the Second Vice President of Congress, is part of an eight-member congressional bloc whose cooperation with the majority in Congress on some issues gave it significant influence. The politically active Confederation of Ecuador's Indian Nationalities (CONAIE) was at the forefront of protests that overthrew then-President Mahuad in 2000. Indigenous members of the National Constituent Assembly and their supporters won important constitutional protections for indigenous rights in the 1998 Constitution. There are three indigenous deputies in the Congress and one indigenous cabinet minister.

One Afro-Ecuadorian serves as a member of Congress, but there are no Afro-Ecuadorians holding senior-level government jobs.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operate without restriction, investigating and publishing their findings on human rights cases. Domestic human rights groups, such as the CEDHU and the regional Latin American Human Rights Association (ALDHU), were outspoken in their criticism of the Government's record on specific cases. The Government has contracted with the ALDHU to provide human rights training to the military and the police.

The office of the Ombudsman ("Defensor del Pueblo") was created in 1998 to ensure ongoing attention to human rights problems; however, some observers have criticized its lack of independence in practice. In May 2000, Congress removed the Ombudsman from office on charges of fraud for acts that he committed while he was acting Attorney General. As of October, Congress had not named a replacement, and Claudio Mueckay was acting Ombudsman.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of preventing, penalizing, and eradicating human rights violations in the country. The three branches of government, as well as the independent Ombudsman's office and a number of NGO's, contributed to development of this plan, and the U.N. contributed funds to support it. The Government continues to implement various aspects of the plan, including training of the Congress on human rights matters, seminars, publication of documents, and a contingency plan for refugees.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, religion, sex, or social status. In addition, the 1998 constitutional reforms explicitly increased the rights of women, children, and minorities, and required Congress to pass legislation implementing these rights promptly. Congress has been only partially successful in carrying out this mandate. Women, indigenous people, and Afro-Ecuadorians continue to face significant discrimination.

Women.—Although the law prohibits violence against women, including within marriage, abuses are widespread. The Law Against Violence Affecting Women and Children criminalized spousal abuse, including physical, sexual, and psychological abuse; created family courts; and reformed the Penal Code to give courts the power to remove an abusive spouse from the home. The law also gives legal support to the government's Women's Bureau in cases of sexual harassment in the workplace.

Between June 2000 and June 2001, the Women's Bureau reported 6,868 cases of sexual, psychological, or physical mistreatment of women. In 1999 a Guayaquil NGO reported that one out of three women suffered from some form of domestic violence. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a witness. Some communities have established their own centers for counseling and legal support of abused women. The Government addresses such problems through its Women's Bureau; however, although the Bureau can accept complaints about abuse of women, it has no authority to act on the complaints but refers cases to the prosecutor's office. As of November, the Women's Bureau had a network of 37 outreach offices in 16 provinces.

Many rapes are not reported due to the victims' reluctance to confront the perpetrators. The Women's Bureau reported 810 cases of rape from January to June. The penalty for rape is a jail sentence of up to 25 years. In cases of statutory rape involving "amorous" sex with a minor, if the rapist marries the victim the charges against him, or anyone else who took part in the rape, cannot be pursued unless the marriage subsequently is annulled. In September Congress increased the penalties for serious offenses in an attempt to curb rising crime. For example, the penalty for rape where death occurred was increased from 16 to 35 years (see Section 1.c.).

Sexual harassment in the workplace is common. Typical cases of sexual harassment reported in the press involve instances where a supervisor solicits sexual favors from an employee.

Adult prostitution is legal.

Discrimination against women is pervasive in society, particularly with respect to educational and economic opportunities for those in the lower economic strata. The increasingly active women's movement alleges that culture and tradition inhibit achievement of full equality for women. There are fewer women than men employed in professional work and skilled trades, and pay discrimination against women is common.

The Ecuadorian Women's Permanent National Forum includes more than 320 women's organizations and promotes social, economic, and cultural change through various methods, including increasing political participation by women. In addition, the National Women's Council provides support for approximately 500 women's organizations, many of which promote social consciousness and greater participation by women in the political process. The Women's Political Coordinator, an NGO that operates in 22 provinces, promotes similar themes relating to women's rights, with emphases on political participation and human rights. It also focuses on young women and Afro-Ecuadorian women.

Children.—According to the National Statistics Institute, in 2000 approximately 45 percent of the population was under the age of 18. The Government has not taken effective steps to provide for the welfare of children. The Constitution requires that children achieve "a basic level of education," estimated at 9 years of school; however, due to the lack of schools in many rural communities, the Government's failure to provide adequate resources, and the need for many children to work, the Government rarely enforces this requirement in practice. UNICEF reported in 1999 that one out of three children did not remain in school long enough to complete the 6th grade. Only 51 percent of teenagers attend school. Education is free. The Constitution provides that 30 percent of the public budget must be devoted to education; however, in practice only half of that amount is spent. The Government has programs in 18 urban areas that provide families with educational subsidies as an incentive to keep children in school. In rural areas, many children attend school only sporadically after 10 years of age in order to contribute to household income as farm laborers (see Section 6.d.).

There is no societal pattern of abuse against children.

There are reports of prostitution by girls and boys under 18 years of age in urban areas, and there have been reports of cases in which children were forced into prostitution.

There was one report of children trafficked to Uruguay for force labor (see Section 6.f.).

Child labor is a problem (see Section 6.d.).

Government resources to assist children traditionally have been limited. The Government operates a program to care for the children of the working poor called "Operation Child Rescue;" However, the Inter-American Commission on Human Rights in 1999 concluded that this program reached only a small percentage of those affected. Approximately 61 percent of children under the age of 5 years are malnourished. Government spending on education continued to decline, both in real terms and as a proportion of GDP.

There are more than 20 NGO's that promote child welfare. Several private organizations are very active in programs to assist street children, and UNICEF also runs a program in conjunction with the Central Bank. The children of the poor often experience severe hardships, especially in urban areas.

Persons with Disabilities.—There is no official discrimination against persons with disabilities in employment, education, or the provision of other state services. However, there are no laws to ensure persons with disabilities access to public buildings or services, nor are they provided any other special government assistance. In June 2000, the city of Guayaquil began a modest program to give persons with disabilities better access to public buildings.

Indigenous People.—While at least 85 percent of all citizens claim some indigenous heritage, those who maintain their indigenous cultural identity and live in indigenous communities comprise between 15 and 20 percent of the total population. The vast majority reside in rural areas, including the highlands and the Amazonian provinces, and most live in varying degrees of poverty. Land is scarce in the more heavily populated highland areas, where high infant mortality, malnutrition, and epidemic disease are common. Electricity and potable water often are unavailable. Although the rural education system is seriously deficient, many indigenous groups participated actively with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The Constitution recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indigenous people also have the same civil and political rights as other citizens. In the Amazon area, indigenous groups have lobbied the Government, enlisted the help of foreign and domestic NGO's, and mounted protests (including kidnaping oil workers and tourists), in their attempts to win a share of oil revenues and a voice in exploitation and development decisions. The Constitution expressly recognizes the indigenous communities' right to be consulted on, but not the right to approve, oil exploration and development. The communities tend to be consulted on such matters, although their wishes are not always met. Oil companies increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but continued to face criticism from indigenous groups that environmental damage continues.

Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the central Government to assist them, indigenous people continue to suffer discrimination at many levels of society. With few exceptions, indigenous people are at the lowest end of the socio-economic scale. For example, according to one UNICEF estimate in 1999, 83 percent of indigenous children worked at some kind of job (see Section 6.d.).

In late January and early February, there were significant indigenous protests across the country. Indigenous groups demanded a freeze in the price of fuel, increased social spending, and subsidies for cooking gas and transportation. Protesters blocked roads throughout the country, and there were several violent confrontations. Police used tear gas and other methods to quell protesters (see Section 2.b.). Between January 29 and February 7, as many as nine persons died in clashes between indigenous-led protesters and security forces (see Sections 1.a. and 2.b.). Demonstrations across the country subsided on February 7 when the Government and indigenous groups entered into formal discussions. The three main indigenous groups—CONAIE, the Federation of Indigenous and Black Peasants of Ecuador (FENOCIN), and the Federation of Evangelical Indigenous of Ecuador (FEINE)—tabled 23 topics for discussion, including the claims by indigenous groups for indemnities over lives lost during the protests. Progress in the talks has been slow, but indigenous protests since February have been minimal.

CONAIE was at the forefront of protests that toppled then-President Mahuad (see Section 3). CONAIE also attempted to arrange a popular referendum and engaged in public demonstrations to protest government economic austerity measures and to urge the repeal of economic modernization laws involving privatization of state-owned enterprises.

Religious Minorities.—Although relations between religious communities generally have been amicable, in past years there have been a few incidents of interreligious or intrareligious tension or violence.

National/Racial/Ethnic Minorities.—The population of the rural, northern coastal area includes large numbers of Afro-Ecuadorian citizens. They suffer widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There are no special government efforts to address these problems.

There are five major Afro-Ecuadorian organizations active in the country; the largest is the National Afro-Ecuadorian Confederation, with headquarters in Quito. It estimates that Afro-Ecuadorians account for more than 1 million persons, or about 9 percent of the total population. While the presence of Afro-Ecuadorians has grown in the fields of sports and culture, their educational opportunities continue to be limited.

The press has focused on lingering racism among all strata of society. Afro-Ecuadorian organizations note that despite the absence of official discrimination, societal discrimination continues to affect them, including stereotyping. For example, they assert that the police stop Afro-Ecuadorians for document checks with greater frequency than other citizens.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and Labor Code provide most workers with the right to form trade unions. Members of the police, the military, and public sector employees in nonrevenue producing entities are not free to form trade unions. The 1991 Labor Code reforms sets the number of workers required for an establishment to be unionized at 30, which the International Labor Organization's Committee on Freedom of Association considers too stringent a limitation at the plant workers' council level. Although the Congress debated additional labor reforms, labor law was in flux during the year because the Constitutional Court ruled in July that some recent labor legislation was unconstitutional (see Section 6.e.). The court's ruling nullified several articles that the Government stated provided flexibility to employers, but that some observers claimed undercut constitutional protections of worker rights.

While employees of state-owned organizations enjoy rights similar to those in the private sector, the law technically prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public employees maintain membership in some labor organization.

The labor market is highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium-to-large industries. Approximately 12 percent of the work force is organized. Most of the economically active population is employed in the agricultural sector or the urban informal sector; the vast majority of these workers are not organized.

Although the labor confederations are politically independent, the two largest single labor unions, the National Union of Educators (UNE) and the Union of Social Security Workers, are allied with the Democratic Political Movement, a communist party. There are four large labor confederations, called centrals. None of the main labor centrals is connected firmly to any one political party, and there are no ties between the Government and any labor union.

There are few restrictions on the right of workers to strike, although a 10-day cooling-off period is required before a strike can be declared. The Labor Code revisions limit solidarity strikes or boycotts to 3 days, provided that the Labor Ministry approves them. In a legal strike, workers may take possession of the factory or workplace, thus ending production at the site, and receive police protection during the takeover. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation. The law does not provide public workers with the right to strike; however, there were frequent "illegal" strikes. The Government occasionally takes action against striking public workers. For instance, during the year, the Government did order striking public health, civil registry, and prison workers and guards back to work.

There were several significant strikes during the year, mainly in response to government austerity measures. They involved public sector employees such as medical, prison, and registry workers. Indigenous groups also protested during the strikes. In January Quito bus drivers struck briefly. Police in Quito used tear gas in January, February, and July to repel demonstrators who sought access to the city center (see Section 2.b.). On July 2, public health workers, including doctors, nurses, and paramedics went on strike to demand higher wages and better working conditions. On July 26, police blocked a protest strike by health workers using tear gas. Four persons were injured, and 36 babies at a nearby hospital were affected by the tear gas, 2 of whom allegedly died as a result (see Sections 1.a., 1.c., and 2.b.). In August the Ecuadorian Bishops Conference brokered a deal with the doctors' union and the Government. The Government ordered the nurses and other health care workers back to work and promised to raise salaries in 2002.

Unions may form freely and join federations or confederations, and three of the large labor centrals maintain international affiliations.

b. The Right to Organize and Bargain Collectively.—The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Collective bargaining agreements cover only one-quarter of the approximately 12 percent of the work force that is organized. In March 2000, a labor law allowed businesses to hire workers on "individual contracts," but the practice did not become prevalent because Congress began a review of the law and has not clarified its status.

The Labor Code streamlined the bargaining process in state enterprises by requiring workers to be represented by only one labor union. It prohibits discrimination against unions and requires that employers provide space for union activities upon the union's request. The law does not permit employers to dismiss a worker without the express permission of the Ministry of Labor, whose rulings are not subject to judicial review. If the Ministry of Labor rules that a dismissal is unjustified, it can require the employer to pay large indemnities or separation payments to the work-

er, although the reforms set a cap on such payments. A fired worker is eligible for reinstatement and in general would not be blacklisted at other companies. Workers generally are protected against antiunion discrimination only by pressure from the union. The Labor Code provides for resolution of labor conflicts through an arbitration and conciliation board which consists of one representative of the Ministry of Labor, two from the union, and two from management.

The 1990 Maquila Law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries only. While there is no express prohibition on association rights in the Maquila Law, in practice it is difficult to organize temporary employees on short-term contracts. Since temporary workers are not recognized by the Labor Code, they do not enjoy the same level of protection offered to other workers. The maquila system allows a company and its property to become an export-processing zone wherever it is located. Many such "zones" have been established; most are relatively small and are dedicated to textiles and fish processing.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and the Labor Code prohibit compulsory labor, and there were no reports of it in general. There have been reports of children forced into prostitution (see Section 5), and there was one report that children were trafficked to Uruguay for forced labor (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits boys younger than age 12 and girls younger than age 14 from working, except in special circumstances such as apprenticeships, domestic service, or in cases of "need," which requires permission from the Ministry of Labor. It requires children between the ages of 12 (boys) or 14 (girls) and 18 years of age to have the permission of their parent or guardian to work. The law also prohibits children between the ages of 14 and 18 years from working more than 7 hours per day or 35 hours per week, and it restricts children below the age of 14 to a maximum of 6 hours per day and 30 hours per week. The law prohibits children between the ages 14 and 18 from working at night, working on the high seas, and performing hazardous work. In practice the Ministry of Labor and the Minors' Tribunals fail to enforce child labor laws, and child labor is prevalent. Despite the economic recovery over the past 2 years, the problem has not improved substantially, in part due to the emigration abroad of many parents who have left their children behind. Urban child labor has increased with the migration of the rural poor to the cities. A 2000 UNICEF report estimated that almost half of the children between the ages of 10 and 17 worked. A 1999 report based on a joint national and World Bank study found that 45 percent of children between the ages of 10 and 17 worked at least part-time. Among children aged 10 to 11, who cannot work legally, 28 percent worked at least part-time nationwide. In rural areas, young children often must leave school at an early age to help out on the family's plot of land. More than 60 percent of all children live in rural areas and do unpaid agricultural work for their families. The Ministry of Labor does not have adequate resources to investigate exploitative child labor practices.

The Ministry of Labor has designated a "Social Service Directorate" to monitor and control child labor in formal sector businesses such as factories. In some instances the Directorate has applied sanctions, but in others, it merely has helped to provide documents to child workers. In urban areas, many children under 12 years of age work in family-owned "businesses" in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Others are employed in commerce, messenger services, domestic service, and begging. Children as young as 5 or 6 years often sell newspapers or candy on the street to support themselves or to augment family income.

ILO Convention 182 on the worst forms of child labor, which the Government ratified in July 2000, entered into effect on September 19.

Child prostitution is a problem, and there have been cases reported of children being forced into prostitution (see Section 5). There was one report that children were trafficked to Uruguay for forced labor (see Section 6.f.). The law prohibits forced or bonded labor by children, and there were no other reports of such practices (see Section 6.c.).

e. Acceptable Conditions of Work.—The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust it. As of September, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$118, or 75 cents per hour in the case of contract workers. The statutory minimum wage is not adequate to provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers work in the large in-

formal and rural sector without recourse to the minimum wage or to legally mandated benefits.

The Ministry of Labor has the principal role in enforcing labor laws and carries this out through a corps of labor inspectors who are active in all 22 provinces. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities. In March 2000, reforms to the labor law gave nominally greater flexibility to employers for hiring part-time workers; however, this legislation was affected by a Constitutional Court decision related to worker's retirement benefits. The impact of the Court's decision remained to be clarified at year's end (see Section 6.a.).

The Labor Code also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace of his own volition, even if there is a hazardous situation. The worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector then may close down the workplace. Response time for inspectors ranges from a few days in major cities to much longer in the countryside.

The Government enforces health and safety standards and regulations through the Social Security Institute. In the formal sector, occupational health and safety is not a significant problem. However, there are no specific regulations governing health and safety standards in the agricultural sector and in practice there is no enforcement of safety rules in the small mines that make up the vast majority of the mining sector. During the year, at least three fatalities were reported due to accidents in the mines.

f. Trafficking in Persons.—A misdemeanor law specifically addresses trafficking in persons, and other laws could be used to prosecute traffickers; however, there were reports of trafficking.

In May the authorities in Uruguay discovered a small child-labor ring. Traffickers had promised seven Ecuadorian youths and one young adult, as well as a Colombian, a better life; however, once in Uruguay the traffickers forced them to carry heavy packages under difficult conditions for 80 hours a week. In addition to being provided with an inadequate diet, the youths were denied proper medical care and one girl had to have her finger amputated. The Uruguayan police charged the ring-leaders with violating the child protection and labor laws, and the children were placed in temporary shelters. There also were reports that children have been trafficked to Venezuela and Spain for forced labor, and that Ecuadorians are trafficked to Guatemala and the United Kingdom.

There also were many reports of persons, including non-Ecuadorians, being smuggled illegally from the country to the United States through Central America in which trafficking sometimes was suspected. In the early part of the year, trafficking was suspected in a case involving Ecuadorian children begging on the street in Uruguay who were being exploited by a ring of adult criminals.

A misdemeanor law specifically prohibits trafficking and provides for penalties from 6 months to 3 years in prison, as well as fines. The Migration Law and the Penal Code provide for the imposition of sanctions on suppliers of false documents for purposes of travel or work. Other laws dealing with kidnaping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. In June 2000, Congress amended the Criminal Code to strengthen sentences for furnishing or utilizing false documents and for alien smuggling. Alien smugglers or traffickers can receive sentences from 3 to 6 years' imprisonment; the penalties range from 6 to 9 years if victims are injured, and a penalty of up to 12 years may be imposed if a death occurs. The law specifically exempts smuggling victims from prosecution. During the year no penalties were applied.

EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president and a unicameral legislature. In 1999 voters elected President Francisco Flores of the Nationalist Republican Alliance (ARENA) to a 5-year term. In generally free and fair elections in March 2000, the former guerrilla organization Farabundo Marti National Liberation Front (FMLN) won a plurality of the seats in the Legislative Assembly. ARENA maintains a working majority in coalition with the conservative National Conciliation Party. Four other parties and one independent hold seats in the Assembly. The judiciary is constitutionally independent; however, it suffers from inefficiency and corruption.

The National Civilian Police (PNC) maintains internal security. The military is responsible for external security. The military provides support for some PNC pa-

trols in rural areas, a measure begun in 1995 by presidential executive order in an effort to contain violence by well-armed, organized criminal bands, and provides support to the law enforcement agencies for specific activities, including antinarcotics efforts and reform school training for juvenile convicts. Civilian authorities generally maintain effective control of the military and security forces. Members of the police committed human rights abuses.

The country's population is over 6.3 million. The free-market, mixed economy largely is based on services, agriculture, and manufacturing. Although agriculture accounts for only 12 percent of the gross domestic product (GDP), it is the largest source of employment, engaging 35 percent of the work force, estimated at over 2.6 million persons. Coffee and sugar are the principal export crops and important sources of foreign exchange, although a sustained decline in coffee prices has depressed activity in this sector. According to the Salvadoran Coffee Council, the decline reduced employment in the end of year harvest by approximately 4,300 jobs. The manufacturing sector, which contributes 21 percent of GDP, employs 9 percent of the work force. The textile sector, especially the maquila (in-bond assembly or processing) plants in free trade zones, represents about 50 percent of manufacturing sector employment and is the main source of new jobs. The economy is open, and private property is respected. The rate of real economic growth was estimated to reach 2 percent during the year. Inflation was 1.4 percent. Per capita GDP reached \$2,183. The official unemployment rate averaged 5.5 percent in the third trimester of the year, 5.9 percent urban and 4.8 percent rural; however, the rate of underemployment (less than full-time work or total income below the minimum wage) during the year was estimated at about 28 percent. In January and February two earthquakes, killed over 1,100 persons, made over 1.2 million homeless, and caused over \$1.3 billion in damage. The result was a 5- to 7-year setback for the country. For example, reversing a decade of steadily declining poverty rates, the earthquakes left 55 percent of the population below the poverty level, substantially more than the 49 percent recorded in 2000. On January 1, the dollar became an official currency together with the colon. Official transactions, including court fines, may take place in either currency.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were no politically motivated killings or disappearances; however, some police officers committed killings. An appeals court affirmed that the statute of limitations had expired in the 1989 murder case of six Jesuit priests. Police officers kidnaped persons for profit. Police officers used excessive force and mistreated detainees. Prison conditions remained poor, and overcrowding was a problem. At times police arbitrarily arrested and detained persons. Lengthy pretrial detention was a problem. The judiciary remained inefficient and hampered by widespread corruption. The Attorney General's office presented a report to the Supreme Court on its investigation of possible irregularities in the law degrees of almost 1,000 lawyers, including prosecutors, judges, and politicians. Impunity for the rich and powerful remained a problem. In July the Legislative Assembly named a new Human Rights Ombudswoman. Violence and discrimination against women remained a serious problem, and discrimination against disabled persons also remained a problem. Abuse of children, child labor, and forced child prostitution were also problems. The Government did not protect adequately workers' rights to organize and bargain collectively. Trafficking in women and children is a problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by agents of the Government; however, members of the police committed some killings.

In 2000, the Human Rights Ombudsman's office (PDDH) received for investigation 87 cases alleging killings by the PNC during the year and in prior years. By the end of the year, the PDDH had not determined whether facts substantiated the allegations and, in cases in which they did, whether the police officers had acted criminally or in the line of duty. In 2000 the presidential commission investigating police misconduct identified at least 72 officers suspected of killings during that year and in prior years. The PNC dismissed the individuals from the force and gave relevant information to the Attorney General's office for investigation. When the Attorney General found sufficient evidence for criminal prosecution, the police arrested the offenders.

On March 31, four police officers, Juan Carlos Ramos Benitez, Jose Antonio Moran, William Alexander Castillo Gonzalez, and Maria Rosibel Garcia, responded

to a call for help in a domestic violence case in El Rosario, La Paz. Allegedly Fernando Naves Mendoza was drunk and had a weapon. When the police officers tried to take it from him, he resisted. Reportedly, they threw him to the floor and beat him until he was unconscious. He was brought to the hospital, where he died of trauma to the abdomen caused by blows. The officers were charged with homicide. The preliminary hearing took place in September, and the trial continued at year's end. The PNC Inspector General's office was conducting a separate investigation of five officers for the crime at year's end.

In May Air Force flight school cadets Carlos Mauricio Melara and Cesar Humberto Dorat beat Erick Mauricio Pena Carmona, a junior cadet, in front of his classmates, allegedly for showing them a lack of respect. He died from his injuries the same day. In October a military tribunal sentenced the two men to 4 years in prison for mistreating a subordinate. In November a civilian court tried the two cadets on charges of aggravated homicide. The court is expected to issue its verdict in March 2002.

A total of 25 inmates died in prison due to violence and illness between January and late October.

In January an appeals court upheld the dismissal of charges against four police officers charged with attempted murder of Edwin Quintanilla Flores and Ricardo Trejo Stanley. In March a court sentenced one of the officers, Mario Orlando Franco Duran, to 11 years in prison and a \$3,000 fine for the aggravated homicide of Salvador Hernandez. Both sets of charges resulted from an incident in February 2000 when police officers shot at the victims' vehicle.

In June a court sentenced former police officer Luis Alonso Navarrete to 35 years in prison for the killing of six persons and the injury of four others in a June 2000 shooting. Navarrete reportedly suffered from mental illness.

There was no reported progress in the appeal of the acquittal of police captain Erick Fuentes of the charge of aggravated homicide in the 1999 shooting of Carlos Lopez Regalo.

There were no developments during the year in the 1999 murders of Fernando Hernandez and Manuel Aguilar.

In January a judge dismissed without prejudice the charges against Jose Ernesto Cordova for the 1999 murder of William Ernesto Rosales Bonilla, an employee of the newspaper *El Diario de Hoy*. The prosecutor appealed, and in February an appeals court upheld the lower court's decision.

In 2000 a public prosecutor charged police captain Mariano Rodriguez Zepeda with aggravated homicide for the 1998 shooting of Jose Antonio Villalta. The defendant did not appear for trial proceedings in August. At the request of the defense lawyer, the judge postponed the proceedings until March 2002.

In November 2000, the Supreme Court declined to review the acquittal of ARENA activists Jose David Murcia and Gilberto Torres for the February 2000 murder of Gilberto Cano Gonzalez, a member of the National Action Party (PAN).

In January an appeals court ruled on a petition to prosecute the persons who instigated the 1989 murders of six Jesuit priests, their housekeeper, and her daughter. The appeals court upheld a lower court's December 2000 decision that the statute of limitations had expired. The appeals court took no position on the applicability of the 1993 General Amnesty Law. As allowed by law, in February the original plaintiff, Jose Maria Tojeira, asked the appeals court to reconsider its verdict, which the prosecution alleged was flawed. In March the appeals court upheld its January ruling. In 1999 the Inter-American Commission on Human Rights (IACHR) had found the State responsible for violating the right to life of the eight murdered persons and for failing to conduct an effective investigation. The report also criticized the 1993 General Amnesty Law, which led to the release from custody of two military officers found guilty of the murders in 1992, and called on the Government to reopen the case.

On September 13, a judge ordered the release on parole of Francisco Orlando Contreras Palacios and Carlos Joaquin Contreras Recinos, who were among those convicted for the 1980 murder of three foreign nuns and their lay colleague. The Attorney General challenged the paroles, and on October 9, an appeals court reversed the lower court's decision to grant parole. The two remained in jail at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

In 2000, the presidential commission investigating police misconduct identified at least 12 officers suspected of involvement in kidnappings during 2000 and in prior years. The PNC dismissed the individuals from the force and gave relevant information to the Attorney General's office for investigation. In cases in which the Attorney General's office found sufficient evidence for criminal prosecution, the police arrested the offenders. Most disappearances were kidnappings for ransom. According

to police statistics, 40 persons were kidnaped during the year, a significant reduction from 114 kidnappings in 2000.

In October the police rescued Elizabeth Bahaia, a prominent businesswoman who had been kidnaped in Ahuachapan. The police arrested former police agent Enrique Murgas Barrientos, who had been dismissed from the force by a PNC disciplinary tribunal in 2000. Barrientos alleged that other police officers had been involved in the crime, but he did not give their names. On October 17, the PNC moved its entire contingent based in Ahuachapan (approximately 100 persons) to San Salvador, and replaced them with police from San Salvador and soldiers. A criminal court found Barrientos guilty of the crime.

In April a court held a preliminary hearing against 20 suspects, including four police officers (Juan Antonio Lainez Quijano, Jorge Alberto Rodriguez, Carlos Alfredo Lopez Rosales, and Rigoberto Antonio Reyes) in the 2000 kidnaping of businessman Rodrigo Zablah. The judge dismissed the charges against Lopez Rosales but ruled that the trial against the other defendants should move forward. Another suspect, Cesar Amilcar Castillo, cooperated with the Government in exchange for having the charges against him dropped. The next phase of the trial was scheduled for February 2002.

In December a jury convicted three individuals of the 2000 kidnaping of a couple in Sonsonate. The jury absolved the two police officers, PNC sergeant Tomasa Reyes Alvarado and former PNC sergeant Jose Azcunaga Segura, charged in the crime. The prosecutor asked the Supreme Court to review the verdict regarding the police officers.

In November an appeals court reinstated kidnaping charges against former guerrilla commander Raul Granillo, also known as Commander Marcelo, and four other persons accused of participating in five well-known kidnappings—those of Nelson Oswaldo Machuca Perez, Guillermo Alfredo Sol Bang, Kerim Eduardo Salume Babum, Alberto Antonio Hill Dutriz, and Andres Abraham Suster Castillejos—between 1991 and 1995. The appeals court overturned a criminal court's August decision to dismiss charges against the five defendants because of insufficient evidence. The appeals court upheld the lower court's decision that the trial against a sixth defendant, Diego Flores, (a lower ranking former guerilla), could proceed on kidnaping charges. It also ruled that two other defendants, Angela del Carmen Carrillo Palacios and Angela Carrillo Flores, should face trial on charges of complicity rather than the lesser charge of covering up a crime, as ruled by the lower court. There were no further developments by the end of the year.

The Association for the Search for Children who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) acknowledged that neither the Government nor the Legislative Assembly would create a national commission to clarify what happened to children who disappeared during the war and whose whereabouts remain unknown. In December 2000, they accepted the Government's commitment to work with them to resolve these questions by forming a working group consisting of the office of the Attorney General, the Ministry of Foreign Affairs, the Salvadoran Institute for the Protection of Children, the National Secretariat of the Family, and the PDDH. In October the working group dissolved after Pro-Busqueda claimed that it was unable to receive cooperation from any of the organizations apart from the Attorney General's office, which was unable to procure any cooperation from the armed forces. Pro-Busqueda planned to push the legislative assembly again for the creation of a national commission.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, some members of the PNC continued to use excessive force or otherwise mistreated detainees.

During the year, the PDDH received 736 complaints of violation of the right of personal integrity by government authorities compared with 724 in 2000. This category covers torture, inhuman or degrading treatment, mistreatment, disproportionate use of force, and improper treatment of detainees. The majority of these complaints involved the PNC and alleged minor to serious violations of arrest procedures. During the year, the PDDH upheld the charges in 11 cases filed during the year and in prior years. The PDDH received a total of 1,142 complaints against the PNC for all categories of human rights violations during the year, compared with 1,198 in 2000.

At the end of the year, 128 police officers were in prison on criminal charges or serving prison sentences for crimes that included murder, rape, extortion, and kidnaping. A total of 75 were serving their sentence, and 53 awaited the conclusion of their trials.

The country has special police courts that are an internal, administrative mechanism of the PNC and only hold disciplinary hearings for PNC employees. They can punish guilty parties with disciplinary measures or remove them from the police

force. They pass information on criminal infractions to the Attorney General's office, which is responsible for investigating and prosecuting the crimes in the justice system.

In 2000 a presidential commission established to investigate alleged police misconduct proposed reforms to PNC regulations to expedite disciplinary measures and dismissals, including the establishment of special courts to review cases of alleged misconduct. In June 2000, the Legislative Assembly passed authorizing legislation to implement the measures recommended by the commission, which strengthened the role of the PNC Inspector General's office, making it a quasi-independent body within the PNC charged with investigating allegations of police misconduct and reporting directly to the chief.

In August 2000, the Assembly passed a temporary measure (Decree 101) that authorized the police chief to remove from the force officers whom the police Inspector General charged with crimes or inadequate performance. That measure expired in February. The police chief dismissed 1,000 officers during the 5½ months that this procedure was in force. A total of 295 officers appealed and, as of September, 26 had been exonerated and reinstated. During the year, the PNC dismissed another 934 employees through ordinary disciplinary procedures and sanctioned 635 employees with suspensions without pay ranging from 16 to 180 days. The PNC dismissed 551 employees through ordinary disciplinary procedures in 2000 and 646 in 1999. Independent observers of the expedited procedures found that some supervisors used the opportunity to remove innocent persons, such as pregnant women and personnel with whom the supervisors had personal differences. They also maintained that the measure focused on the lowest ranking staff, and that the Inspector General did not investigate senior officials suspected of crimes. Statistics provided by the PNC showed that the number of officers removed from the force at each grade was proportional to the number of officers at that grade in the PNC.

The presidential commission had identified 14 persons suspected of having committed torture in 2000 and prior years. The PNC dismissed the individuals from the force and gave relevant information to the Attorney General's office for investigation. When the Attorney General found sufficient evidence for criminal prosecution, the police arrested the offenders.

Police used tear gas on one occasion against violent protesters (see Section 2.b.).

In August a prominent women's rights organization asserted that sexual harassment was widespread within the PNC and that female officers were subject to violence within the police (see Section 5).

There was no new information in the 1999 case of PNC agents in Chalatenango department charged with hitting, insulting, and threatening six homosexuals.

Human rights awareness is a standard component of the police officers' basic training program.

Prison conditions remained poor. From December 1997 to December 1999, the prison population fell about 23 percent as a result of the implementation of new sentencing and penal codes, which limit preventive detention to serious crimes. However, it increased again during 2000 and continued to increase during the year. The prison system has the capacity to hold 7,050 prisoners in 19 penal facilities. There still was overcrowding in individual facilities. At year's end, 8,889 men were held in 17 prison facilities with a combined capacity of 6,800, and there were 41 men and 5 women in 3 secure hospital wards with a combined capacity of 75 persons. Because of a lack of holding cells, pretrial detainees often are sent to regular prisons, where they may be placed together with violent criminals.

Gang violence, especially in the country's three largest and oldest penitentiaries, continued to plague the prison system, despite government efforts to segregate gangs. In January 2000, the media reported incidents of prisoners torturing other prisoners in La Esperanza prison in San Salvador in 1999 and earlier. Prison authorities reported that, through late October, there were 25 deaths in the prison system; 10 prisoners died from multiple wounds caused by violence between prisoners; 3 died attempting to escape; 1 died from hanging (allegedly killed by other inmates). The remaining deaths resulted from illness.

There are separate facilities for female detainees and prisoners. At the end of the year, there were 501 women in 2 women's prisons, which have a capacity of 250, and 81 women in prisons where most inmates are males. Conditions in the women's facilities are adequate but overcrowded.

The law requires that all juveniles be housed separately from adults both prior to trial and while serving a prison sentence, and the Government generally observes this requirement in practice. Gang violence in juvenile holding facilities is a problem. In April the authorities separated the different gangs in the country's juvenile correction centers into different facilities to mitigate violence between rival groups. The Salvadoran Institute for the Protection of Children (ISPM) reported a sharp re-

duction of gang-related violence in youth corrections centers and an increased ability to implement education and reintegration programs following this change. Most criminal cases involving juveniles are brought to trial or conciliation proceedings within 3 months.

The Government permits prison visits by independent human rights monitors, NGO's, and the media.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest; however, at times the PNC arbitrarily arrested and detained persons. During the year, the PDDH received 178 complaints alleging violations of personal liberty, compared with 181 complaints in 2000. During the year, the PDDH upheld the charges in 11 cases filed during the year and in prior years. The courts generally enforced a ruling that interrogation without the presence of counsel is coerced, and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender arrived.

The law permits the police to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often are sent to regular prisons, where they may be placed together with violent criminals (see Section 1.c.). The law allows 6 months to investigate serious crimes before a judge is required to bring the accused to trial or dismiss the case. In exceptionally complicated cases, the judge or either party may ask the appeals court to extend the deadline for three months. However, many cases were not completed within the legally prescribed time frame. During the year, 5,147 inmates (more than half the prison population) were in pretrial detention (see Section 1.c.). From January through May 2000, the justice of the peace courts, where most court cases originate, accepted a daily average of 166 cases (see Section 1.c.). Of these, a daily average of nine cases was resolved through conciliation proceedings.

The Penitentiary Code permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners have been incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee may request a review by the Supreme Court of his or her continued detention.

The Constitution prohibits forced exile, and the Government observes this prohibition.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice. However, the judiciary suffers from inefficiency and corruption.

The court structure has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council (CNJ). The CNJ is an independent body provided for in the Constitution to nominate, train, and evaluate justices. The Legislative Assembly elects, by a two-thirds majority, Supreme Court magistrates from a list provided by the CNJ and the National Association of Lawyers. Magistrates serve for periods of 3, 6, or 9 years and may be reelected. There are separate court systems for family matters and juvenile offenders; they stress conciliation as an alternative to adjudication. The system also has criminal sentencing courts and penitentiary oversight courts. The former determine sentences for persons found guilty by trial courts, and the latter monitor the implementation of sentences. (For cases that entered the judicial system before the penal code reforms of 1998, the trial court remains responsible for establishing sentences.) Through its Department of Judicial Investigation, the Supreme Court regularly receives and investigates public complaints about judicial performance. This department also reviews the findings and recommendations of the CNJ, which evaluates justices on an ongoing basis. The Supreme Court imposes penalties when warranted.

Judges, not juries, decide most cases. Juries are used in a particular phase of the prosecution. Most cases start with a preliminary hearing by a justice of the peace court, and then proceed to the trial court, which determines whether or not a jury should hear the case. After the jury's determination of innocence or guilt, a judge decides the sentence. Almost all cases such as homicide, kidnaping, fraud, environment, drugs, or issues involving private property go to juries. Only a few categories of cases do not go to juries, such as petty theft, crimes of honor (e.g. libel), public security crimes against the state (e.g. terrorism), carrying illegal weapons, selling abortants illegally, or battery which causes less than 10 days of disability. A jury verdict cannot be appealed. However, the defendant may appeal the sentence to the Supreme Court for reduction. A jury verdict may be overturned by a mistrial deter-

mination that there were serious problems with jury panel selection or errors in the trial procedure. A judge's verdict may be appealed.

The Juvenile Legal Code requires that minors under the age of 18 be tried only in juvenile courts, limits sentences for minors to a maximum of 7 years, and includes alternatives to incarceration for minors.

The Constitution provides for the presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and compensation for damages due to judicial error. Defendants also have the right to be present in court. These rights were not always respected fully in practice. The Constitution and law require the Government to provide legal counsel for the indigent; however, this requirement was not always implemented in practice.

Impunity from the country's civil and criminal laws continued, especially for persons who were politically, economically, or institutionally well connected. Corruption in the judicial system and the Attorney General's office contributed to impunity.

For example, the Attorney General's office and police made no progress in bringing to justice the perpetrators of the 1999 rape and murder of 9-year old Katya Miranda. Human rights groups charged the investigation was flawed criminally, and the prosecution was inadequate to ensure due process.

In October an appeals court overturned a 2000 decision that directors of the Salvadoran Soccer Federation could not be prosecuted for the disappearance of funds from its coffers because the institution was private. The appeals court determined that the trial should move to the next phase. Two board members, Juan Sigfrido Torres Polanco and Fredy Orlando Vega, faced charges of embezzlement of public funds. The appeals court upheld the dismissal of charges against five other members of the board of directors.

The Government and the Legislature have taken steps to address these problems. In November 2000, the Legislative Assembly passed a law, at the Attorney General's urging, that created an expedited process for dismissing employees of the Attorney General's office. The measure, authorized for 120 days, was modeled after a law passed in August 2000 that permitted the expedited removal of corrupt and incompetent personnel from the police force (see Section 1.c.). In December 2000, the Attorney General formed a board to review appeals in this process; the panel included representatives of the national lawyer's association and of two NGO's with relevant expertise. The Attorney General dismissed a total of 36 prosecutors and 24 administrative personnel under this authority. Early in the year, the Attorney General asked the appeals board to conduct an institutional review of his office. The board published a report in September, and the Attorney General began to implement its recommendations.

In August the Attorney General's office presented a report to the Supreme Court on its investigation of possible "irregularities" in the law degrees of almost 1,000 lawyers, including prosecutors, judges, and politicians. The Attorney General's office alleged that eight universities had issued questionable degrees. As of late September, the Supreme Court had suspended seven lawyers and judges pending further investigation and the Attorney General had dismissed one prosecutor. Critics maintained that the Attorney General's report did not differentiate between serious and minor offenses. For example, some persons under investigation never took courses listed on their transcripts, while others simply failed to complete the requisite number of semesters after transferring schools.

The Supreme Court has maintained that its Department of Judicial Investigation and the CNJ scrutinized judicial performance on an ongoing basis and that, therefore, the court system needs no further oversight mechanisms or disciplinary procedures. However, the Court has imposed few sanctions upon judges. In 2000 the Court received the Council's evaluations of the performance of 322 justices of the peace, 46 trial court judges, 63 sentencing court judges, and 28 appeals court magistrates. The evaluations reviewed each judge's performance over several months in 1998 or 1999. The Council recommended the dismissal of 3 justices of the peace and 1 trial court judge and suspensions ranging from 3 to 60 days for 156 justices of the peace, 23 trial court judges, 18 sentencing court judges, and 13 appeals court magistrates. During 2000-2001, the CNJ reviewed the performance of 617 judges. It recommended disciplinary action against 230, including the dismissal of 4. The Supreme Court disciplined a total of 19 judges in 1999 (4 were dismissed); 15 judges in 2000 (5 were dismissed); and 48 judges in 2001 (12 were dismissed).

Police, prosecutors, public defenders, and the courts continued to have problems adjusting to the 1998 legal reforms. Inadequate police coverage (due to limited resources) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for a right to privacy, and government authorities generally respected this right in practice. The law requires the police to have a resident's consent, a warrant, or a reasonable belief that a crime is under way or is about to be committed, before entering a private dwelling.

However, on July 18, the Legislature approved a series of penal code reforms that allow the police to use undercover agents with the permission of the Attorney General and enter legally private property without a warrant when criminal activity is suspected. In addition, samples of blood and other bodily fluids can now be taken without the consent of the accused if a judge mandates it.

Neither the Attorney General nor a special legislative commission has identified who was responsible for illegal wiretapping activities conducted by the telecommunications company, TELECOM, in 2000.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of the press, and the Government generally respects this right in practice. Print and broadcast journalists from all major media outlets regularly and freely criticize the Government and report opposition views. Opposition figures are interviewed routinely in the press and on television and radio. According to major media associations, the Government did not use direct or indirect means to control the media. However, some television stations continued to complain that advertising agencies responsible for placement of government-funded public service announcements were biased in favor of media companies that generally supported government policy. In January a prominent television news anchor, Mauricio Funes, alleged that President Flores had pressed for his dismissal in reprisal for his criticism of the Government; however, Funes retained his job.

The Inter-American Press Association (IAPA) identified problems in several areas, including the absence of a law providing for journalists' right to maintain the confidentiality of sources.

There are 5 daily newspapers, with a combined circulation of more than 250,000 copies per day, and 12 television stations. Four independent VHF television stations reach most areas of the country, while the government-owned and operated VHF station has poor signal quality even in San Salvador. Seven independent UHF stations serve San Salvador, and several can be received as far as 30 miles from the capital. Two cable television systems cover much of the capital, and other cable companies operate in the major cities of San Miguel, Santa Ana, and Sonsonate. All carry major local stations and a wide range of international programming. There are approximately 20 small cable television companies across the country, serving limited local areas. While most of them appear to be authorized broadcasters, several are believed to be pirating signals. Approximately 150 licensed radio stations broadcast on the FM and AM bands.

A provision in the Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the IAPA have claimed that the provision abridges press freedom. In the past, legislative deputies have argued that misuse of the provision could lead to impunity and corruption by limiting the watchdog role of the press.

There were no instances of censorship of books, other publications, films, or plays. Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for peaceful assembly for any lawful purpose, and the Government generally respects this right in practice. Public demonstrations are common and generally peaceful.

On October 24, police dispersed an estimated 2,000 former civil war militia members with tear gas after the protesters blocked a public thoroughfare, vandalized public buildings, and disrupted the work of several government institutions. Demonstrators injured three police officers—one seriously. The former militia members were demanding compensation for their service during the 1980–92 civil war, when they patrolled rural areas and informed the military about guerrilla movements. Police detained 10 former militiamen involved in the demonstration. Authorities issued arrest warrants for three of the group's leaders and captured two within days. The human rights Ombudswoman declared that the PNC agents had acted appropriately; her staff had been present throughout the day and had participated in the PNC's efforts to convince the demonstrators to disperse.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

In March the Supreme Court found constitutional all but four articles of a 1996 law governing the registration, regulation, and financial oversight of NGO's and non-Catholic religious groups that a group of affected organizations had challenged

in court in 1998. The law remains in effect. However, the decision prohibits any official or judge from denying legal status to an NGO for behavior that violates social norms, morality, or public order as long as there are no violations of the criminal code. Some NGO's assert that the Ministry of the Governance delays approval of legal status for controversial NGO's with human rights or political agendas. However, none has been denied legal status permanently, and numerous NGO's representing a wide range of political views and functional approaches operate freely (see Section 4).

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Constitution specifically recognizes the Roman Catholic Church and grants it legal status. In addition, the Constitution provides that other churches may register for such status in accordance with the law.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

The law does not include specific provisions for granting refugee or asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has procedures for handling such requests in accordance with these principles.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The President and Vice President are elected every 5 years. The Constitution bars the President from election to consecutive terms. Voting is by secret ballot.

Ten political parties, representing the full political spectrum, fielded seven candidates in the March 1999 presidential elections. The Government did not restrict opposition participation, and there were no violent incidents during the campaign. Observers found that the vote was without major flaws and proceeded peacefully with fair access to the polls for all. Francisco Flores, the candidate of the ARENA party, won a clear majority in the first round of voting.

In March 2000, the country held legislative elections that observers generally reported to be free and fair. The FMLN won a plurality of legislative seats.

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems; however, the percentage of women in government and politics does not correspond to their percentage of the population. Women head 3 of 11 ministries (Foreign Affairs, Education, and Environment) and hold a substantial number of vice- and sub-ministerial jobs. An estimated 40 percent of the country's judges are female. Women represented 49 percent of the registered voters in the March 2000 election. In March 2000, voters elected 8 women to the 84-seat legislature, a decrease from the previous Assembly's 14 women. One woman sits on the Assembly's 11-member governing board; there were 2 women on the board in the previous legislature.

Minorities, including indigenous people, are not barred from voting or participating in government and politics; however, the percentage of minorities in government and politics does not correspond to their percentage of the population.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government generally demonstrated a willingness to discuss human rights issues and problems with international and domestic NGO's. However, it was sometimes reluctant to discuss worker rights issues with NGO's. Numerous domestic and various international NGO's operated freely. Domestic and international NGO's are required to register with the Government under the terms of the 1996 NGO registration law, and some reported difficulties.

The principal human rights investigative and monitoring body is the Office of the Human Rights Ombudsman, who is elected by the Assembly for a 3-year term. The Peace Accords specifically created the PDDH, which was established formally by an amendment to the Constitution that defined its role.

In July the Legislative Assembly elected attorney Beatrice de Carrillo to serve as Human Rights Ombudswoman. The position had been vacant officially for 17

months and in practice for 5 months. The institution's reputation and the quality and quantity of its work had declined since 1998, due to staffing gaps in the top position and the election in 1998 of an Ombudsman accused of corruption. A vehement, public dispute that began in 2000 between the acting Ombudsman and some employees exacerbated these negative trends. Indicating their lack of confidence in the institution, citizens filed fewer complaints with the PDDH in 1999 and 2000 than in previous years and relied more heavily on human rights NGO's. Public confidence in the PDDH appeared to recover following de Carrillo's election—there was an immediate 10-fold increase in complaints submitted. Many of these complaints do not fall into traditional human rights categories (such as right to water, compensation claims of former combatants), leading to criticism that the PDDH is exceeding its mandate.

During the year, the PDDH accepted 2,898 complaints of human rights violations, compared with 2,572 in 2000 (see Sections 1.a. and 1.c.). The rights most frequently alleged to have been violated included personal integrity and due process of law—736 and 772 complaints respectively. During the year the PDDH issued resolutions upholding the charges in 567 cases filed during the year and in prior years in all human rights categories.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that all persons are equal before the law and prohibits discrimination based on nationality, race, sex, or religion. In practice, discrimination against women, disabled persons, and indigenous people occurs in salaries and hiring. There were some instances of violence against homosexuals.

There were no new developments in the 1999 shooting of a man leaving the office of the domestic homosexual rights organization *Entre Amigos*, or in the investigation of telephonic death threats against the director of that organization. There were no new developments in the 1999 murders of transvestite prostitutes Doris and Nestor Adonai Marengo (known as Gloria).

There was no new information in the 1999 case of PNC agents in Chalatenango department charged with hitting, insulting, and threatening six homosexuals.

Women.—Violence against women, including domestic violence, is a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from 6 months to 1 year in prison upon conviction. Convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The law also allows the imposition of restraining orders against offenders. Once a taboo social subject, domestic violence increasingly is being recognized publicly and has become a topic for national debate. Government institutions such as the PDDH, the Attorney General's office, the Supreme Court, the Public Defender's office, and the PNC coordinated efforts with NGO's and other organizations to combat violence against women through education, government efforts to increase enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family, through the Salvadoran Institute for the Development of Women (ISDEMU), maintains a hot line for victims to report domestic abuse. The ISDEMU received 3,423 cases of domestic violence during the year, a significant reduction from the 5,785 cases in 2000. Incidents of domestic violence and rape continued to be underreported for several reasons: societal and cultural pressures against the victim; a fear of reprisal; poor response to victims by the authorities; fear of publicity; and the belief that cases are unlikely to be resolved. However, the Criminal Code permits the Attorney General to prosecute in the case of a rape with or without a complaint from the victim. Criminal Code reforms in February eliminated a provision allowing a victim's pardon to nullify the criminal charge. The penalties for rape are 6 to 10 years in prison. The law does not address specifically spousal rape; however, it can be considered a crime if the actions meet the Criminal Code's definition of rape. The ISDEMU received 286 cases of sexual aggression compared to 364 in 2000.

The law does not prohibit a person from working as a prostitute. However, it prohibits any person from inducing, facilitating, promoting, or giving incentives to anyone else to work as a prostitute. Prostitution is common, and there were credible reports that some women and girls were forced into prostitution (see Section 6.c.).

Trafficking in women and girls for purposes of sexual exploitation is a problem (see Section 6.f.).

The law prohibits sexual harassment; however, workers in export processing zones (EPZ's) have reported sexual harassment (see Section 6.b.).

In August a prominent women's rights organization, CEMUJER, asserted that sexual harassment was widespread within the PNC. Describing three cases, they reported that the victims had suffered professional reprisals for reporting harassment and senior PNC officials had tried to cover up relevant facts. The PNC maintained

that it was investigating the allegations in accordance with standard operating procedures. Citing a 2000 survey that it had conducted, the same NGO maintained that almost 60 percent of female sergeants had been victims of violence within the police.

There were reports that PNC supervisors used legislation intended to facilitate the removal of officers charged with crime to remove pregnant women from the force (see Section 1.c.). Some factories in the EPZs require female job applicants to present pregnancy test results, and they do not hire pregnant women (see Section 6.b.).

The Constitution grants women and men the same legal rights, and the Penal Code establishes sentences of 1 to 3 years in jail for public officials who deny a person's civil rights based on gender. The law prohibits pregnant women from performing strenuous activities in the workplace after the 4th month of pregnancy (see Section 6.e.). All women are entitled to 3 months of maternity leave—usually taken after the baby is born.

Women suffer from cultural and societal discrimination and have significantly reduced economic opportunities. Priority generally is given to male children for schooling, to men for available jobs and promotions, and to sons for inheritances. Women are not accorded equal respect or stature in traditional male-dominated areas such as agriculture and business. A 2000 U.N. Development Program (UNDP) study reported a rural illiteracy rate of 38 percent for women and 34 percent for men. One of the factors that contributes to girls' leaving school is teenage pregnancy. A former personnel officer of an autonomous government institution asserted that her supervisor had instructed her to give preference to men over women in hiring. The Penal Code establishes a sentence of 6 months to 2 years for employers who discriminate in labor relations. In practice it is difficult for employees to report such violations by their employers because they fear reprisals. In June 2000, the Legislature ratified International Labor Organization (ILO) Convention Number 100, on equal remuneration; however, a UNDP study showed that men on average earned 14 percent more than women—\$250 versus \$219 (2,189 colones versus 1,913). The one sector in which there is an exception to this practice is in the EPZs and in-bond assembly plants, the largest source of new jobs, where women made up 85 to 90 percent of the work force (see Section 6.b.). However, even in this sector, men hold the majority of management positions. Training for women generally is confined to low-wage occupational areas where women already hold most positions, such as teaching, nursing, home industries, and small businesses.

Several NGO's are engaged in promoting women's rights and have conducted several rights awareness campaigns.

Children.—The Government concentrated more on reducing poverty and promoting family stability through economic growth than in direct expenditure on children's programs. In November the National Secretariat of the Family solicited public input on the final draft and incorporated suggestions into a new national policy of comprehensive attention for children and adolescents.

Education is compulsory through the 9th grade (up to age 14). Public education is nominally free through high school; however, the inability to pay mandatory fees for books, uniforms, and activities prevents some poor children from attending school. Only a nominal fee is charged to attend the national public university. Rural areas fell short of providing a 9th grade education to all potential students, in part because of a lack of resources and in part because many rural parents withdraw their children from school by the 6th grade to work. UNICEF data from 1998 show that 14 percent of urban children (ages 7–17) and 29 percent of rural children were not attending classes. The Government estimates that 150,000 children stopped attending school due to family hardship and damage to school buildings caused by major earthquakes in January and February.

Infant malnutrition continued to be a problem. A 2000 census showed that 19 percent of children suffer from chronic malnutrition. The Ministry of Health listed malnutrition as one of the 10 principal causes of infant mortality in the country. The Government has a national plan for infants designed to increase access to potable water, iodized salt, and micronutrients, and to encourage breast feeding, but all of these remain problem areas, especially among the rural poor.

The Government worked through state institutions and with UNICEF to promote protection and general awareness of children's rights. However, children continued to be victimized by physical and sexual abuse, abandonment, exploitation, and neglect. The Salvadoran Institute for the Protection of Children, an autonomous entity, has responsibility for protecting and promoting children's rights. The ISPM estimated during the year that an average of 1,500 children, some abandoned and others victims of mistreatment, stayed in its shelters. Through November 30, it reported 1,246 cases of physical mistreatment, 310 cases of negligence, and 450 cases of abandonment. In 2000 the ISPM reported approximately 1,600 cases of mistreat-

ment, 267 cases of negligence, and 411 cases of abandonment. Using different criteria, the ISDEMU recorded 1,196 cases of abuse during the year, significantly below the 2000 level of 3,071 cases. The difference reflects a change in reporting criteria. The ISPM believes that the number of cases of abuse actually have fallen due to various educational programs and campaigns they completed during 2000. The Program for the Prevention of Mistreatment was a media campaign through radio, television, and newspapers to educate parents, especially fathers, on appropriate ways to treat their children. A separate informational campaign was aimed at communities with high levels of violence. The ISPM held meetings to educate citizens on how to reduce the overall level of violence in their communities. However, some NGO's do not agree that the number of cases of abuse has decreased.

The ISPM reported 139 cases of sexual abuse through November 30, a decrease from the 2000 figure of 292. A majority of the victims were female. According to the PDDH, over 85 percent of all abuse occurs in schools and at home, and only a small percentage of these cases were reported to the authorities.

Substance abuse (glue and paint sniffing) was a problem among urban street children. FUNDASALVA, an NGO, provides drug counseling and treatment to minors. Contrary to the past, there were no allegations during the year from children's rights advocates that police abuse and mistreat street children. The PNC incorporated PDDH human rights training into programs for police units that deal with juveniles.

Child prostitution is a problem. Between 10 and 25 percent of visible prostitutes are minors, and an estimated 40 percent of the hidden prostitutes who cater to upper-class clients are believed to be minors, according to a UNICEF study released in 2000. Through November 30, ISPM assisted 24 children who were involved in prostitution, compared with 79 in 2000.

Children, especially those living on the streets, are trafficked to other countries and then forced into prostitution; children from Honduras have been used as beggars to support traffickers in San Salvador (see Section 6.f.).

Child labor is a problem (see Section 6.d.).

Persons with Disabilities.—The majority of the country's population of persons with disabilities consists of former combatants and civilians wounded during the conflict. Government and international funding provide rehabilitation programs for these persons. Efforts to combat discrimination and increase opportunities for those whose disabilities are unrelated to the war are growing but remain inadequate. A 2000 law mandates that new or renovated public buildings be accessible to the persons with disabilities, and requires businesses to employ 1 person with a disability for every 25 employees, an increase from the preexisting requirement of 1 to 50. Although the Government had not enforced the previous law's employment quota, it brought together dozens of government agencies and NGO's to discuss ways to implement the new law effectively. The Ministry of Labor increased from two to four the number of staff members handling issues related to persons with disabilities. However, the Ministry's resources are limited, and its records are kept on paper files in its regional branches. Therefore, there are no reliable data on the number of persons with disabilities who are employed.

Access by persons with disabilities to basic education was limited due to lack of facilities and appropriate transportation. There was no provision of state services for persons with physical disabilities. Only a few of the Government's community-based health promoters have been trained to treat persons with disabilities, and they rarely provided such service. The Ministry of Health estimated that 10 percent of the population is afflicted by some form of disability. Many disabilities are directly attributable to the civil war.

There were several organizations dedicated to protecting and promoting the rights of persons with disabilities, but funding was insufficient. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation Pro-Rehabilitation, a local private voluntary organization, helped address numerous rehabilitation issues and provided alternatives for the education and rehabilitation of persons with disabilities. A semiautonomous institute, the Salvadoran Rehabilitation Institute for the Disabled, has 10 centers throughout the country and offers medical treatment, counseling, special education programs, and professional training courses. The Government and national and international private and nongovernmental organizations provide its funding.

Indigenous People.—The country is ethnically homogeneous, although a very small segment of the population still claims indigenous status.

The Constitution states that native languages are part of the national heritage and should be preserved and respected. In reality, very few persons speak the indigenous language of Nahuatl. There are no national laws regarding indigenous rights.

Early in the 20th century, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they now are generally indistinguishable. There are a few very small communities whose members still wear traditional dress and maintain traditional customs to a recognizable degree; they do so without repression or interference. There are no special rights for indigenous people; however, they are allowed to make decisions regarding their communal lands just as any other landowners under Article 105 of the Constitution. These small indigenous groups exist in the poorest parts of the rural countryside where employment opportunities are few and domestic violence is a problem.

Indigenous people reportedly earn less than other agricultural laborers. Indigenous women in particular have little access to educational and work opportunities due to cultural practices, lack of resources, and rural underdevelopment. As with the poor rural sector in general, access to land is a growing problem confronting indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There are some small, active indigenous associations. The largest and best known is the National Association of Indigenous Salvadorans.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the rights of workers and employers to form unions or associations, and the Government generally respected these rights in practice; however, there were some problems. There were repeated complaints by workers, in some cases supported by the ILO Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association. In June the CFA reiterated its 1999 finding that the existing labor code restricts freedom of association.

Union leaders asserted that the Government and judges continued to impose excessive formalities to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. In March 2000, the Government denied an application from five food industry unions to form a federation, because they allegedly had made procedural errors in their application. Despite ILO findings in favor of the workers, the Ministry of Labor had not recognized the federation by year's end, and the Supreme Court had not decided on the complaint submitted by the workers in 2000.

In February the Ministry of Labor determined that the telecommunications union, SUTTEL, had committed a technical error in forming its board of directors in 2000. However, it upheld the union's official status and the union leaders' legal protections. All but two dismissed unionists accepted severance payment. The Ministry of Labor declined to issue an administrative finding that the telecommunications company TELECOM had obstructed the union's freedom of association in 2000 when it dismissed dozens of SUTTEL members shortly after the union's formation because, it asserted, issuing such a finding was not within its jurisdiction. However, labor advocates insisted that the Ministry was legally responsible for issuing an administrative finding and charged it was failing to perform its duty. In April TELECOM and SUTTEL signed an agreement to address outstanding issues in their dispute. As part of the accord, Telecom reinstated the two union officers who had not accepted severance pay. SUTTEL subsequently charged that the company prevented its members from entering certain plants to organize, violating its commitment to allow the union to conduct its business freely. SUTTEL also alleged that TELECOM placed one of the reinstated officers in a different position than he had held prior to being fired. TELECOM continued to refuse to reinstate two union leaders dismissed during the 1998 privatization of the state owned telecommunications company ANTEL.

There is a small organized labor sector with approximately 150 active unions, public employee associations, and peasant organizations, representing over 300,000 citizens, approximately 20 percent of the total work force. Unions generally are independent of the Government, political parties, and other political forces. The Labor Code prohibits foreigners from holding leadership positions in unions.

By law only private sector workers have the right to form unions and strike; some employees of autonomous public agencies may form unions if the agencies do not provide essential services. Military personnel, police, and government workers may not form unions but are allowed to form professional and employee organizations. Some of the most powerful labor groups are public employee associations. They have the same responsibilities as unions, including collective bargaining. The Government negotiated with public employee associations, although the Labor Code provides for mandatory arbitration of public sector disputes. The Government did not

amend national legislation to recognize the right of association of workers employed in the service of the State, as recommended by the November 2000 CFA.

The law prohibits antiunion actions before a union is registered legally and prohibits the dismissal of workers whose names appear on a union application.

Unions only may strike after the expiration of a collective bargaining agreement. Unions first must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. To be considered legal, the strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot. The union must name a strike committee to serve as a negotiator and send the list of names to the Ministry of Labor, which notifies the employer. The union must wait 4 days from the time the Ministry notifies the employer before beginning the strike. There were no significant strikes during the year.

Public workers may not strike legally; however, the Government generally treated strikes called by public employee associations as legitimate.

In June the CFA recommended the closure of a case alleging mass unfair dismissals and violence against demonstrators following the March 2000 social security workers' strike. The CFA was satisfied with the Government's responses to the allegations. During the year, social security workers engaged in several work stoppages ranging from 2 to 24 hours. During a daylong action in August, they prevented doctors and patients from entering the facilities. In September the Labor Ministry determined the action was an illegal strike and authorized the Social Security Institute (ISSS) to suspend for up to 30 days employees who had participated. On October 15, the ISSS dismissed 6 employees and suspended 22 others over an illegal work stoppage on May 30. The Social Security Workers Association charged that the punitive measures were illegal because the law prohibits the dismissal or suspension of union leaders, and filed a complaint with a labor court. The court had issued no decision by year's end.

The Labor Code prohibits partisan political activity by unions. The unions routinely ignored this prohibition, but the Government took no punitive action against them.

Unions and other labor organizations freely affiliated with international labor organizations.

b. The Right to Organize and Bargain Collectively.—The Constitution and the Labor Code provide for collective bargaining rights for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) used collective bargaining.

The Ministry of Labor oversees implementation of collective bargaining agreements and acts as a conciliator in labor disputes in the private sector and in autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiate with labor organizations directly, relying on the Ministry of Labor only for such functions as officially certifying unions. The Ministry often seeks to conciliate labor disputes through informal channels rather than attempt to enforce regulations strictly, which has led to charges that the Ministry is biased against labor. Labor leaders assert that the Government had an unfair advantage in arbitration of public sector labor disputes, because the Government holds two of three seats on arbitration panels. (The employer, the workers, and the Labor Ministry each name one representative to a panel.) Corruption among labor inspectors and in the labor courts continued to be a problem. In June the Labor Ministry removed from their positions five inspectors, including a senior inspector, who had been accepting bribes from companies.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for 1 year following their term may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. However, the Labor Code does not require the employers to reinstate them, but requires the employers to provide a severance payment. In practice, some employers dismissed workers who sought to form unions. The Government generally ensured that employers paid severance to these workers. However, in most cases the Government did not prevent their dismissal or require their reinstatement. Workers and the ILO reported instances of employers using illegal pressure to discourage organizing, including the dismissal of labor activists and the maintenance of lists of workers who would not be hired because they had belonged to unions.

On September 24, the Government suspended approximately 190 security and cargo personnel at El Salvador's International Airport and the Port of Acajutla and replaced them with police and soldiers. The change was part of the Government's efforts to strengthen border security following terrorist attacks in the United States.

The airport union charged that the semiautonomous port authority (CEPA) targeted union members to break the union and privatize some of CEPA's functions. The union also maintained that CEPA management pressured workers who remained employed at the airport after September 24 to renounce their union affiliation. In September and October, the union filed complaints with the Labor Ministry, the labor courts, the PDDH, and the ILO. CEPA denied the charges and insisted that it had adhered strictly to the law. CEPA offered the suspended workers a voluntary retirement package of 1 month's pay for every year worked. In October the Labor Ministry sought to mediate a solution. However, the parties made little progress and decided to withdraw from negotiations. At the end of the year almost 100 workers had accepted the voluntary retirement package. The PDDH had not issued a formal resolution by the end of the year. However, her staff indicated that, after analyzing the facts, they found that the Government had violated the workers' rights.

There are approximately 220 maquila (in-bond assembly or processing) plants, the majority of which are located in the country's 11 EPZ's. The Labor Code applies in the EPZ's; there are no special EPZ labor regulations.

Most businesses in the EPZ's are subject to a growing number of private codes of conduct, which also include some worker rights protections. In addition, two EPZ's have their own codes of conducts for all tenants. These codes include worker rights protection clauses; however, it is not known if they state the ILO's Fundamental Principles and Rights at Work. Some companies in the EPZ's provided salaries and on-site benefits (for example, clinics, cafeterias) competitive with the best private sector enterprises (see Section 6.e.). However, there were credible reports that some factories dismissed union organizers, and there are no collective bargaining agreements with the 19 unions that exist in the maquila sector. The International Confederation of Trade Unions (ICFTU) contended in its 2000 report that some EPZ workers also received low pay, endured health and safety risks, 12- to 14-hour workdays, and had minimal toilet and rest breaks. The Government contends that the workers often prefer not to use safety equipment, and they have time for toilet and rest breaks. Furthermore, the Government reported that it had received no complaints of minimum-wage violations during the year (see Section 6.e.).

On May 9, a foreign NGO, the National Labor Committee (NLC), made public the text of an August 2000 report on the maquila sector by the Labor Ministry that described what it called the systematic violation of workers' efforts to form unions as well as safety problems and mandatory overtime policies (see Section 6.e.). The report also identified weaknesses in the Ministry of Labor that undermined employers' and workers' confidence in the institution. After the initial publication of the report, the maquila association criticized it as unsubstantiated and inaccurate. Labor NGO's, unions, and workers affirmed that it described accurately conditions in the sector. In August 2000, the Minister of Labor retracted the report, saying that it had been published without his approval and did not have adequate documentation of its assertions. President Flores stated publicly that the report showed the Ministry of Labor was working to monitor conditions in the maquilas.

In June the EPZ apparel factory Amitex fired 78 workers involved in forming a union. The company reinstated 55 of the workers a week later after strong interventions by the Labor Ministry as well as letters from the factory's principal customer and an international NGO. The remaining 23 workers accepted severance pay in lieu of reinstatement. In September Amitex dismissed 13 of the reinstated workers. The Ministry of Labor sought their reinstatement; however, the company chose to pay them severance pay. One pregnant woman refused to accept severance pay. (By law, pregnant women are protected from dismissal.) The worker, with assistance from a labor federation, filed a complaint with a labor court. There was no resolution on the case by the end of the year.

In 2000 the Ministry of Labor opened branch offices in EPZ's to make its services more accessible to its users. The Ministry provided the staff, and the EPZ's covered other costs.

Workers in a number of plants reported verbal abuse, sexual harassment and, in several cases, being hit by a supervisor. Although the Ministry of Labor has improved its efforts to increase inspection and follow up on such complaints, it still has insufficient resources to cover all the EPZ's, much less the much larger national private sector.

Although a 1996 law gives the Ministry of Economy the power to withdraw free zone privileges from companies that violate labor regulations, there have been no instances in which this has been used or even threatened publicly. The ICFTU has reported persistent problems facing female employees in EPZ's, including mandatory pregnancy tests and firing of workers who are pregnant (see Section 5).

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, except in the case of natural catastrophe and other instances

specified by law, and the Government generally enforces this provision; however, trafficking in persons, primarily women and children, is a problem (see Section 5).

Although not specifically prohibited by law, forced and bonded labor by children is covered by the general prohibition. There were no reports that such practices occurred in the formal sector; however, there were reports that minors were forced into prostitution, and trafficking in children is a problem (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution prohibits the employment of children under the age of 14; however, child labor is a problem. An UNICEF study in 1998 showed that over 185,000 minors between the ages of 10 and 17 worked, the majority in agriculture. This number represented almost 17 percent of the population in that age group and constituted over 8 percent of the country's workforce. Minors, age 14 or older, may receive special Labor Ministry permission to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. This is most often the case with children of peasant families who traditionally work during planting and harvesting seasons. The law prohibits those under the age of 18 from working in occupations considered hazardous (see Section 6.e.). The law limits the workday to 6 hours for youths between 14 and 18 years of age and sets a maximum normal workweek for youths at 36 hours.

Orphans and children from poor families frequently work for their own or family survival as street vendors and general laborers in small businesses, mostly in the informal sector. Children in these circumstances often do not complete schooling. There were no reports of child labor in the industrial sector. It does not exist in the EPZ's.

The Ministry of Labor is responsible for enforcing child labor laws and made an effort to do so; however, scarce resources and the difficulty of monitoring the large informal sector limited its effectiveness outside the urban formal sector. In September 2000, the ILO's International Program for the Elimination of Child Labor (IPEC) opened an office in the country. The Government subsequently formed a National Steering Committee to begin implementing ILO Convention 182 composed of representatives of employers, workers, government agencies, and NGO's. The Steering Committee identified prostitution, work in garbage dumps, fishing, sugarcane farming, and fireworks manufacturing as the worst forms of child labor in the country. The Committee developed a strategy proposal and project proposals, which it submitted to the IPEC office for further elaboration. IPEC continued to conduct a number of pilot programs with international funding.

The Labor Code does not prohibit specifically forced and bonded labor by children, but they are covered by its general prohibition; however, there were reports that minors were forced into prostitution (see Section 6.c. and 6.f.).

e. Acceptable Conditions of Work.—The minimum wage is set by executive decree based on recommendations from a tripartite (government, labor, and business) committee. The minimum daily wage is \$4.80 (42 colones) for commercial, industrial, construction, and service employees; \$2.47 (22 colones) for agricultural workers; and \$3.57 (31 colones) for seasonal agriculture industry workers. The minimum wage with benefits does not provide a decent standard of living for a worker and family.

The Ministry of Labor is responsible for enforcing minimum wage laws and generally does so effectively in the formal sector. However, some maquila plants underpaid workers and failed to compensate them in accordance with the law for mandatory overtime.

The law sets a maximum normal workweek of 44 hours. It limits the workweek to no more than 6 days for all workers. It requires bonus pay for overtime. By law a full-time minimum wage employee is paid for an 8-hour day of rest in addition to the 44-hour normal workweek and receives an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. Many workers worked more hours than the legal maximum; some were paid overtime but others were not.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees are not placed at risk in their workplaces. These laws prohibit the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous, such as bars and billiard halls; the prohibition also applied to hazardous occupations such as agricultural work with poisonous chemicals or factory work with dangerous equipment. The Labor Code prohibits pregnant women from engaging in strenuous physical exertion at the workplace after the 4th month of pregnancy. Health and safety regulations are outdated, and enforcement is inadequate. The Ministry of Labor attempts to enforce the applicable regulations but has restricted powers and limited resources to enforce compliance. Workers in some maquilas expressed concerns about unhealthy drinking water, unsanitary bathrooms, and eating facilities, and inadequate ventila-

tion (problems with dust and heat). Some of the largest plants have dust control, air conditioning, on-site medical facilities, and enforced safety regimes.

On May 9, the NLC made public the text of an August 2000 report by the Labor Ministry on conditions in the country's maquilas. According to the report, many factories failed to provide basic safety equipment and had mandatory overtime policies. The report faulted some factories for setting unrealistic production quotas and for requiring many workers to put in extra hours with no pay when they fell short of those quotas. In addition, the report described what it called the systematic violation of workers' efforts to form unions (see Section 6.b.).

f. Trafficking in Persons.—In October the Legislative Assembly approved criminal code reforms that prohibited trafficking in persons. Prior to the reforms the Criminal Code stipulated that any crime involving "commerce in women or children" automatically carried a 30 percent increase in the prison sentence or fine that otherwise would be imposed for that crime; however, trafficking in persons is a problem.

Women and children are trafficked for prostitution to Mexico, Guatemala, and other Central American countries. There are credible reports that women and children are lured to Mexico by procurers only to be sold to owners of establishments there who then force the trafficked persons to work off the debt as prostitutes. According to Guatemalan authorities, street children from El Salvador are lured to border areas with Guatemala where they are then forced into prostitution by organized rings. Trafficking of female teenagers, from 14 to 19 years of age, for sexual exploitation also occurs within the country from the south to the northern ports of Acajutla and La Libertad. The majority of trafficked victims transiting El Salvador are from Nicaragua, Honduras, and South America. The most common methods used to approach the victims are kidnaping, lucrative job offers, and inducement into prostitution by friends.

According to press reports, Honduran children were brought to San Salvador to beg for their sponsors. The Government investigated and took a number of children into custody. When their parents could not be found, they were turned over to the ISPM.

The Government, through the office of the Attorney General, has created a unit for the protection of women and children that is charged with the investigations of cases of abuse against women and children, including trafficking. The PNC, the Child Protection Institute, and the Directorate of Immigration also actively are involved in combating trafficking in persons. However, the investigative units are new and poorly funded, and the Government has not prosecuted traffickers.

The Government deports non-Salvadoran victims of trafficking; however, victims can obtain temporary residency or refugee status if they are likely to face political persecution in the country of origin. Access to legal, medical, and psychological services is provided to the victims. Victims of trafficking are not treated as criminals. The Government does not provide assistance to its repatriated citizens who are victims of trafficking, nor does it support the NGO's that assist them.

GRENADA

Grenada is a parliamentary democracy, with a Governor General as titular Head of State. In the 1999 parliamentary elections, Prime Minister Keith Mitchell's New National Party (NNP) won all 15 seats and formed a new government. Subsequently, one Member of Parliament left the NNP and became the sole opposition member. The elections were conducted openly and fairly and were free of violence. The judiciary is generally independent.

The 782-member Royal Grenada Police Force is responsible for maintaining law and order. It is controlled by and responsive to civilian authorities. There were occasional allegations of abuse by the police.

Grenada and 2 smaller islands, Carriacou and Petit Martinique, have a population of approximately 98,000. The country has a free market economy based on agriculture and tourism. The estimated real economic growth rate was 6.4 percent in 2000, and the projected annual growth rate for 2001 was 4.5 percent. Per capita gross domestic product was \$8,922 in 2000.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Violence against women is common, although cases of such violence appear to be declining. Child abuse remains a significant problem, and in October the Social Services Ministry established a special hot line to handle complaints of abuse.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reported incidents of torture. Flogging, a legal form of punishment, is rare but has been used as punishment for sex crimes and theft cases.

There were no media reports of police brutality during the year. Allegations of police brutality are investigated internally by the police. The Police Commissioner can discipline officers in valid cases of brutality with penalties that may include dismissal from the force. The Police Commissioner continued to speak out strongly against police use of unlawful force.

Prison conditions generally meet international standards, and the Government permits visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The law provides the police with the right to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours. The police generally adhere to this time limit in practice. If the police do not charge a detainee within 48 hours, they must release the person.

The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There is a functioning system of bail, although persons charged with capital offenses are not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the Governor General.

The Government does not use forced exile.

e. Denial of Fair Public Trial.—The judiciary, a part of the Eastern Caribbean legal system, is generally independent. Final appeal may be made to the Privy Council in the United Kingdom. Those arrested on criminal charges are brought before a judge to determine whether there is sufficient evidence to substantiate the charges; if there is, the judge remands the defendant for trial.

The law provides for the right to a fair public trial, and the authorities generally observe this right in practice. There is a presumption of innocence, and the law protects persons against self-incrimination and requires the police to explain a person's rights upon arrest. The accused has the right to remain silent and to seek the advice of legal counsel. A defense lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser.

The court appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court appoints a lawyer to represent the accused if the defendant was not previously represented or reappoints earlier counsel if the appellant no longer can afford that lawyer's services. Due to the backlog of cases caused by a shortage of judges and facilities, those charged with serious offenses must wait from 6 months to 1 year before coming to trial in the High Court. With the exception of persons charged with murder and foreign-born drug suspects, the courts grant most defendants bail while awaiting trial.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the authorities generally respect these prohibitions. The law generally requires judicially issued warrants for searching homes, except in cases of hot pursuit. The law contains other exceptions that give the police and security units legal authority to search persons and property without warrants in certain circumstances. In practice police obtain warrants in the majority of cases before conducting any search.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. There are three weekly newspapers, and several other newspapers publish irregularly. One of the weeklies is affiliated with an opposition political party, but the three most widely circulated newspapers are independent and often critical of the Government. The newspapers routinely carry press releases by the opposition parties, including regular weekly columns expressing the opposition parties' views.

There are six radio stations. The main station is part of the Grenadian Broadcasting Network (GBN), a privately owned organization in which the Government holds a minority share. The principal television station is also part of the GBN.

There is also a privately owned television station. A cable television company operates in most areas of the country. All newspapers, radio, and television stations enjoy independence from the State and regularly report opposition views. The television news often carries reports on opposition activities, including coverage of political rallies held by various political parties and candidates, public forums featuring political leaders of each of the major parties, and other public service broadcasts.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right to assemble for any peaceful purpose, and for the right of association, and the Government generally respects these rights in practice. Supporters of political parties meet frequently and hold public rallies; the authorities require permits for the use of a public address system but not for public meetings themselves.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country, and all citizens have the right to enter and leave the country, except in special circumstances as outlined in and limited by the 1986 Act to Restrict the Freedom of Movement of Certain Persons. This law allows the Minister for National Security to restrict travel out of the country by any person whose aims, tendencies, or objectives include the overthrow of the democratic and parliamentary system of government; it has not been invoked in the past few years. Anyone so restricted may appeal after 3 months to an independent and impartial tribunal. The Chief Justice appoints an accredited lawyer to preside over such a tribunal.

No formal government policy toward refugee or asylum requests exists. The issue of provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections must be held every 5 years; in January 1999, Prime Minister Keith C. Mitchell's NNP was returned to office, securing all 15 seats in Parliament. In 2000 a Member of Parliament changed party affiliation to become the single elected opposition member, leaving the NNP with a majority of 14 seats.

The percentage of women in government or politics does not correspond to their percentage of the population. Four of the 15 elected Members of Parliament are women; there are no women among the 13 appointed Senators. Women account for 7 of the 13 permanent secretaries, the highest civil service position in each ministry; in addition, a woman is the Cabinet Secretary, the highest civil service position in the Government.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Local human rights groups operate without government restriction, and the Government cooperates with visits from international human rights organizations.

The Truth and Reconciliation Commission, which was established by the Government in January 2000, was inaugurated formally in September and began its work in early November to investigate the period between the mid-1970's and the late 1980's. Rather than conduct hearings, the four-member commission has invited interested parties to share information with them either privately or in public sessions. Since October the commission held five weekly sessions, which did not draw much media or public attention. The commission's terms of reference specify the objective of recommending "general amnesty to certain persons who in the opinion of the commission have given truthful information during the hearing of evidence." The commission is expected to review the convictions of former Deputy Prime Minister Bernard Coard and other leaders of the former People's Revolutionary Government for their roles in the 1983 assassination of former Prime Minister Maurice Bishop and his cabinet colleagues. In 1986 a court convicted Coard and 18 other revolutionary leaders of murder and sentenced them to death; subsequently, 2 were pardoned, and the sentences of the remaining 17 commuted to life in prison. Of these, one person was granted parole to undergo medical treatment overseas.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, place of origin, political opinion, color, creed, or sex, and the Government generally adheres to these provisions.

Women.—Women's rights monitors believe that violence against women remains a serious problem, and there was a notable increase in reports of incidents of violence during the year. In May Parliament enacted a bill aimed at combating domestic violence. It provides for penalties including jail sentences, fines, and community service and also includes provisions for issuance of restraining orders. The police state that most cases of abuse are not reported, and others are settled out of court. The law stipulates a sentence of 15 years' imprisonment for a conviction of any non-consensual form of sex. Sentences for assault against a spouse vary according to the severity of the incident. The Ministry of Women's Affairs has implemented a public relations campaign to increase awareness of the problem of domestic violence, which focuses on a different aspect of the problem each year. In November the campaign involved press releases; purple ribbons, pins, and T-shirts; and workshops with groups and organizations. There is a shelter for battered and abused women and their children in the northern part of the island, with medical and psychological counseling personnel on its staff. The home accommodates 20 persons.

Prostitution is illegal.

Sexual harassment in the workplace is a problem.

There is no evidence of official discrimination in health care, employment, or education. Women frequently earn less than men performing the same work; such wage differences are less marked for the more highly paid jobs.

Children.—The Social Welfare Division within the Ministry of Labor provides probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or provide foster care to children, and financial assistance to the six children's homes run by private organizations.

Education is compulsory until the age of 16.

Government social service agencies reported a further increase in the number of child abuse cases, including sexual abuse. Abused children are placed either in a government-run home or in private foster homes. The law provides for harsh penalties against those convicted of child abuse and disallows the victim's alleged "consent" as a defense in cases of incest. There were three convictions for such offenses during the year, with abusers sentenced to a maximum of 15 years in prison. In January Parliament passed a Child Protection Act. In October the Social Services Ministry established a child abuse hot line; it received an average of six calls per day. Women's organizations and other nongovernmental organizations increased their public awareness efforts to recognize and combat sexual abuse of women and children.

Persons with Disabilities.—The law does not protect job seekers with disabilities from discrimination in employment, nor does it mandate provision of accessibility to public buildings or services. The National Council for the Disabled and the National Children's Home assist the Government in placing students with disabilities into community schools. The Council also seeks assistance from architects and builders in the construction of ramps at hotels and public buildings, and ramps have been installed at some hotels and government buildings.

Section 6. Worker Rights

a. The Right of Association.—All workers are free to organize independent labor unions. Although employers are not legally obliged to recognize a union formed by their employees, they generally do so in practice. Labor Ministry officials estimate that 25 percent of the work force is unionized, a decline reflecting loss of jobs during the year. Union leaders play a significant role in the political process, and one labor leader serves in the Senate on behalf of the Grenada Trades Union Council (GTUC).

All unions are technically free of government control, and none receive government financial support. However, all of the major unions belong to one umbrella labor federation, the GTUC, which is subsidized by the Government. The GTUC holds annual conventions and determines some policies for member unions.

Workers in the private and public sectors are free to strike, once legal and procedural requirements are met. There were several strikes or other types of industrial action during the year, including those by workers at the Nutmeg Association, the Grenada Sugar Factory, and the airport. All were short-lived and were settled with the intervention of the Labor Commissioner, the Minister of Labor, and the respective unions.

The GTUC and its unions freely affiliate with regional and international trade union groups.

b. The Right to Organize and Bargain Collectively.—Workers are free to organize and to participate in collective bargaining. The law requires employers to recognize a union that represents the majority of workers in a particular business. The law prohibits discrimination by employers against union members and organizers. Mechanisms exist to resolve complaints of discrimination. After all avenues for resolving a complaint have been exhausted between union representatives and employers, both sides may agree to ask for the assistance of the Labor Commissioner. If the Labor Commissioner is unable to find a resolution to the impasse, the Minister of Labor intervenes and, if unable to reach an agreement, may appoint an arbitration tribunal if both parties agree to abide by its ruling. The law requires employers who are found guilty of antiunion discrimination to rehire dismissed employees, but in most cases the employee accepts the option of compensation. There were no cases of antiunion discrimination reported to the Ministry during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution specifically prohibits forced or bonded labor, including that of children, and it is not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—Child labor is illegal; however, children sometimes work in the agricultural sector. The statutory minimum age for employment of children is 18 years. Inspectors from the Ministry of Labor enforce this provision in the formal sector by periodic checks; however, enforcement efforts in the informal sector are lax. The Government has endorsed but not yet ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor. The Constitution prohibits forced or bonded labor by children, and there were no reports that it occurred (see Section 6.c.).

e. Acceptable Conditions of Work.—There are no minimum wage laws in force. Most workers, including nonunionized workers, receive packages of benefits from employers set by collective bargaining agreements between employers and labor unions. In many cases, overall wages and benefits are not sufficient to provide a decent standard of living for a worker and family. Many families receive remittances from relatives abroad and also help support themselves through garden-plot agriculture. The generally accepted minimum wage for agricultural workers was about \$8.50 (EC\$20.00) per day.

The Constitution stipulates that the maximum number of hours per week workers may work is 40. The law does not prescribe a standard workweek, except for the public sector, which is expected to work a 40-hour week Monday through Friday. The normal workweek in the commercial sector includes Saturday morning work but does not exceed 40 hours.

The Government sets health and safety standards, but the authorities enforce them unevenly. Workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

GUATEMALA

Guatemala is a democratic republic with separation of powers and a centralized national administration. The 1985 Constitution provides for election by universal suffrage of a one-term president and a unicameral congress. President Alfonso Portillo of the Guatemalan Republican Front (FRG) took office in January 2000 following a generally free and fair December 1999 runoff election. The FRG maintains its majority (63 seats) in the 113-member Congress. Despite significant pledges, the Portillo administration and Congress took only limited steps to implement the 1996 Peace Accords concluded with the Guatemalan National Revolutionary Unity (URNG) guerrillas in 1996. The judiciary is independent; however, it suffers from inefficiency, corruption, and intimidation.

The Minister of Interior oversees the National Civilian Police (PNC), created in 1997 under the terms of the Peace Accords. The PNC has sole responsibility for internal security. There are no active members of the military in the police command structure, but the Government frequently ordered the army to support the police, who are ill equipped and lack resources. Under existing law, military personnel were subordinated to police control during joint patrols or operations. The Constitu-

tion requires the Minister of Defense to be either a colonel or a general in the military. The Government abandoned efforts to appoint a civilian as Minister of Defense after the Constitutional Court ruled in 2000 that it would be unconstitutional for the President, as Commander in Chief, to name a civilian as the Minister of Defense, with the rank of assimilated general. In December in violation of the spirit of the Peace Accords, the President named the former Minister of Defense, General Eduardo Arevalo Lacs, who had retired only the previous day, to be the new Minister of Interior. The President has not yet carried out his commitment to dissolve the Presidential Military Staff (EMP), and the Government increased its budget in the year. In addition, the Finance Ministry increased the overall military budget. Some members of the security forces committed human rights abuses.

The country has a population of slightly over 11.5 million. The mostly agrarian, private sector-dominated economy grew by approximately 2.5 percent during the year. Coffee, sugar, and bananas are the leading exports, but tourism and apparel assembly are key nontraditional industries. Significant declines in world prices for coffee adversely affected the economy. About 40 percent of the work force is engaged in some form of agriculture. According to the U.N. Development Program (UNDP), between 50 and 60 percent of the population depended on subsistence farming. Inflation rose to 8.9 percent during the year, driven by high fiscal deficits and tax increases. According to a study by the Ministry of Agriculture, 4 percent of producers controlled 80 percent of the land. There is a marked disparity in income distribution, and poverty is pervasive, particularly in the large indigenous community. Approximately 83 percent of the population lives in poverty; this figure rises to 90 percent among the indigenous. According to the UNDP, 59 percent of the population live in extreme poverty. Combined unemployment and underemployment were estimated at 46 percent. Per capita gross domestic product was approximately \$1,763 for the year. Foreign aid is an important part of national income. Remittances from citizens living abroad continued to grow as a major source of foreign currency. In September when the eastern part of the country suffered the effects of drought and 80 percent of the year's harvest was lost, the Government declared a national disaster. In November the PDH censured both the President and the Vice President for failing to promote policies of economic development to prevent such a disaster.

The Government generally respects the human rights of its citizens; however, serious problems remain in some areas. During the year the Government removed two directors of the Presidential Commission on Human Rights (COPREDEH) in as many months. Some security forces committed extrajudicial killings. Some high-level officials covered up or obstructed efforts to investigate human rights abuses. On June 8, a court convicted an army captain, a retired army colonel, a former EMP specialist, and a Catholic priest for the 1998 murder of Catholic bishop and human rights activist Juan Gerardi Conedera. In June a nongovernmental organization (NGO) acting as legal representative for 11 communities whose inhabitants were massacred by government forces in the early 1980's filed a criminal suit against the high command of the regime of former de facto president and current President of Congress, retired General Efraim Rios Montt, alleging genocide and other crimes against humanity. The leader of the NGO was attacked and seriously injured within several weeks of filing the suit.

The U.N. Verification Mission in Guatemala (MINUGUA) reported increased signs of the participation of clandestine armed groups in illegal activities linked to employees of the Prosecutor's Office, justice system, and police. MINUGUA reported increases in violent deaths, killings in prisons, and "social cleansing" operations in which persons deemed socially undesirable (e.g., gang members, local delinquents, and released or escaped convicts) were murdered. Security forces tortured, abused, and mistreated suspects and detainees. Prison conditions remained harsh. After a massive jailbreak in June, the Government instituted a State of Alarm for 2 months, during which the rights to freedom of movement and legal representation, as well as protection against arbitrary detention were suspended in principle. On August 2, in response to violence associated with protests against tax increases, a state of exception was declared in Totonicapan; and the military patrolled the state capital for three days. In many cases, the prosecutorial and judicial system was unable to ensure full and timely investigations, fair trials, or due process. Arbitrary arrest and lengthy pretrial detention continued to be problems. Judges and other law enforcement officials are subject to intimidation and corruption. In May the U.N. Special Rapporteur for Justice noted a deterioration in the security of justice sector workers. Threats against judicial personnel, journalists, witnesses, labor organizers, and human rights workers heightened public insecurity. Parallel investigations, the obstruction of justice, threats, and intimidation also were traced to groups related to the Government. The MINUGUA noted that the majority of human rights violations were the result of the failure of the state to investigate and punish those

who break the law. An estimated 15 percent of the violations derive from the obstruction of justice, particularly by police officers whose only punishment was to be rotated away from assignments where there were problems. Efforts to reform the judiciary continued; however, impunity remained a serious problem.

The Government achieved convictions in a few important cases involving past human rights violations; however, most human rights cases remained pending for lengthy periods without being investigated or languished in the courts as defense attorneys took advantage of the inefficient judicial system and filed numerous baseless motions and appeals to delay trials.

Allegations persisted that the EMP infringed on citizens' privacy rights by monitoring private communications.

MINUGUA continued to monitor peace implementation and human rights issues. The Government made some progress toward settling cases pending before the Inter-American Commission on Human Rights (IACHR). In May the Government reached an amicable settlement with victims of the Dos Erres massacre and in December fulfilled its agreement to make a 1.87 million payment (14.5 million quetzals) to the families of the victims. However, legal proceedings against the perpetrators of the massacre continued to languish in the courts. Violence and discrimination against women persisted, as did societal abuse of children and discrimination against persons with disabilities and indigenous people. Workers' efforts to form unions and participate in union activities were hindered by ineffective government protections. The Government approved a series of amendments to the Labor Code that provide important protection of labor rights in accord with international standards. In March a trial court convicted 22 persons on charges of coercion and illegal detention for the October 1999 holding at gunpoint of the leaders of the principal banana workers' union. Child labor and trafficking in women and children were problems. Lynchings and mob violence continued at a slightly higher rate than in 2000.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were allegations of politically motivated killings by government agents, and security forces committed some extrajudicial killings. The Government demonstrated some willingness to arrest and prosecute those responsible and achieved some convictions in high-profile cases; however, in many cases, the scarcity of law enforcement resources and a weak prosecutorial system prevented the Government from adequately investigating killings and other crimes or arresting and successfully prosecuting perpetrators (See Sections 1.c. and 1.e.). There is credible evidence of military involvement in two and police involvement in seven extrajudicial executions.

In September MINUGUA reported investigating 26 of the 43 allegations of extrajudicial killings received between July 2000 and June and confirming the validity of the claims in 18 cases. These figures represented an increase over the previous reporting cycle (October 1999 to June 2000) during which MINUGUA investigated 15 of 21 alleged extrajudicial killings and confirmed 13. The report noted a number of extrajudicial killings by members of the police. Many of these cases involved accidental discharges of weapons, drunken misbehavior by on- or off-duty officers, questionable crowd control techniques, or poor judgment by officers who lost control of unstable situations involving angry crowds or persons resisting arrest. Some cases presented signs of premeditation and malicious intent. In some of these cases, there was effective investigation by both the police's Office of Professional Responsibility (ORP) and the prosecutors. In others, there was credible evidence of a cover up by police officers, the ORP, or both; and frequently investigations by the Prosecutor's Office were inadequate. ORP received 14 cases of homicide between January and July. MINUGUA also noted an increase in the participation of municipal officials, particularly auxiliary mayors, in extrajudicial killings—primarily lynchings.

On August 11, an appeals court in Retalhuleu upheld an 18 years and 9-month sentence against Edgar Leonel Rodas Vasquez, a former police officer, who was convicted of killing 13-year-old Elfrid Frank Vicente Tecun on September 1, 2000.

According to MINUGUA's September report, on May 25, 2000, men wearing military uniforms in a jeep marked "ZM12" (for Military Zone 12) detained Oscar Guzman Garcia and Jose Castaneda Alvarez along the highway between Palin and Escuintla. On May 28 and 29, respectively, the heads of the two men appeared in different tributaries of the Guacalate River. On May 31, the two decapitated bodies were located in the town of El Rodeo, Escuintla. Forensic tests showed that the men had been shot in the head. According to MINUGUA, both the Police Investigative

Unit and the Prosecutor's Office investigated only the involvement of witnesses in the crime. Neither organization requested any information from military authorities. After receiving threats, one of the witnesses declined to testify in court, and eventually moved to a new location. Eleven months after MINUGUA began its investigation, the Ministry of Defense provided records of the movement of vehicles into and out of ZM12. This information contradicted the information originally provided by the authorities at ZM12 about the number and type of vehicles on the base. More than a year after the murders, there has been no explanation by the appropriate authorities of the two deaths, and there was no reported progress in the investigation.

There was no progress in the April 2000 killing of Denis Fredy Cucul Tun by police officer Rolando Salvador Rubio Choc.

There was little progress in the investigation of the March 2000 killing of off-duty police officer Sergio Barahona Arana in San Jose Acatempa, Jutiapa by Byron Florian Yanez and Jose Mendez Interiano, two police officers in a police patrol car.

There was no progress in the ongoing investigation by the Prosecutor's office into the February 2000 case in which police officers conducted a sting operation without a warrant against street vendors of pirated music recordings in an outdoor market in Guatemala City, killing one person, Francisco Ixcoy Osorio, and injuring others. In June 2000, a court released six police officers and three army soldiers. The police officers claimed that colleague Alfredo Saso Perez killed Osorio, and that two of their superiors—Commissar Virgilio Ramos and Chief of Operations Diones Arriaza Solis—used death threats and false testimony to organize a coverup to impede the prosecutor's investigation; however, the judge provisionally closed the case for lack of evidence. The Prosecutor's Office appealed the decision, and the Fourth Appellate Court rejected the appeal.

In some cases, detainees or prisoners died while in the custody of police officers or Investigative Unit detectives, apparently due to torture or abuse (see Section 1.c.). Following a June 17 jailbreak in which 78 prisoners escaped, 10 escapees were killed, often under questionable circumstances (see Section 1.c.). In March one inmate died after the authorities fired tear gas into the Santa Teresa women's prison (see Section 1.c.).

In March 2000, detainee Luis Armando Colindres was found dead in his cell at a police substation in Zone 12 of the capital, apparently the victim of strangulation. The police claimed that Colindres hanged himself, but the forensic report found injuries consistent with a struggle. A judge ordered the detention of police officers Santos Medardo Recinos Moran, Elman Avigail Garcia Pineda, and Jeremias Santiago Godoy Ramos on charges of homicide. On June 7, the judge granted a defense motion to modify the charges to material document fraud (altered police reports) and abandonment of duty, and released the defendants on bail. An appeal of these decisions was pending at year's end.

In May the authorities arrested two instructors of the military academy, Captain Hugo Rigoberto Orozco Pu and Lieutenant Angel Boanerges Carrera Sandoval, in connection with the November 1999 death of cadet Danilo Cardona Mejia, who died after being required to perform excessively rigorous physical exercise. It took 2 years before an arrest warrant was issued and served.

Although most cases from past years remained unresolved, there were some convictions during the year for past extrajudicial killings by members of the security forces. In many other cases there was little or no progress, often due to the tactics of defense attorneys who frequently abused the legal system by filing dilatory motions to derail impending trials against their military clients.

On June 8, a three-judge panel convicted three military officers, former EMP specialist Jose Obdulio Villanueva Arevalo; army Captain Byron Lima Oliva; and Lima Oliva's father, retired Colonel Byron Lima Estrada, of the 1998 murder of Bishop Juan Gerardi, the Coordinator of the Archbishop's Office on Human Rights (ODHAG). The court sentenced them to 30-year, noncommutable sentences. The court also found the bishop's assistant, Father Mario Orantes, guilty and sentenced him to 20 years' imprisonment. The defendants' appeals were pending at year's end. The court acquitted Margarita Lopez, the Bishop's cook. Because the murder occurred just 2 days after Bishop Gerardi delivered the final report of the Office's "Recovery of Historical Memory" Project (REMHI), which detailed many of the human rights abuses committed during the internal conflict and held the military, military commissioners, and civil self-defense patrol forces responsible for more than 90 percent of war-related human rights violations, most observers had suspected a political motive for the crime. The judges did not close the case. Instead, they called for further investigation into the material authorship of the crime; the role of the EMP chain of command; and investigation of those who obstructed justice, including seven military officers, two civilians, and four prison officials. They named Rudy

Pozuelos, Andres Villagran Alfaro, Francisco Escobar Blas, Dario Morales Garcia, Carlos Rene Alvarado, Luis Alberto Lima Oliva, Julio Melendez Crispin, Edgar Carrillo Grajeda, Erick Urizar Barillas, Hugo Najera Ruiz, Santos Hernandez Perez, Erick Medrano Garcia, and Misael Chinchilla Monzon.

MINUGUA confirmed multiple complaints by judges, prosecutors, witnesses, and the Archbishop's Human Rights Office staff of numerous threats and acts of intimidation, including telephone threats, electronic surveillance, and observation by unknown individuals following them on foot or in vehicles (see Sections 1.e. and 4).

In February, less than 2 weeks before the scheduled opening of the trial, Judge Rudy Chin Rodriguez, who was named to the panel in July 2000, asked to be recused from the case on the grounds that a prior friendship with Father Orantes prevented him from being objective. Some justice workers interpreted the judge's request to be recused after having already been involved in the case for some months as unprofessional and needlessly casting doubt on the pretrial decisions in which he had taken part. However, the Association of Judges and Magistrates noted that the judge had on several occasions commented on the danger of hearing the case, suggesting that to do so could be life threatening.

Presiding Judge Eduardo Cojulun received a death threat on his answering machine several days before the trial opened. On March 16, two unidentified men jumped the fence of the home of Judge Yassmin Barrios. Unknown assailants also threw a live fragmentation grenade onto the back porch of her house the night before the trial began. Judge Barrios, her elderly mother, and a family friend were having dinner indoors when the explosion took place, and no one was injured.

On March 22, the trial began; however, the military suspects refused to appear in court and had to be brought in by force. During the trial, Ruben Chanax Sontay testified that retired Colonel Lima Estrada had recruited him to spy on Bishop Gerardi on behalf of military intelligence in exchange for a weekly payment. In June Noe Gomez, brother of witness Gilberto Gomez Limon, testified that military defense attorney Roberto Echeverria had approached him on several occasions with a bribery offer. The bribe was intended for his brother not to testify that he saw Villanueva leave the jail in Antigua the day of the murder.

With the completion of the trial, the appeal process showed signs of bogging down through a return to more dilatory motions. In July Villanueva's defense attorney, Irvin Aguilar Medizabal, submitted duplicate appeals. The move provoked a delay of the decision by the court of appeals on the merits of the argument, while the Supreme Court ruled that the lower court must consider both appeals. On July 18, appeals court Judge Wilewaldo Contreras decided not to step down when the Archbishop's Human Rights Office challenged his impartiality for his friendship with military defense lawyer Julio Cintron Galvez and for having presided over the decision to commute a 1996 homicide charge against Villanueva. However, in a reverse decision in November Judge Contreras asked to be excused from hearing the case, because he felt offended by the Archbishop Office's accusations.

The Presidential Human Rights Commission concluded negotiations in the settlement with the family of Pedro Sas Rompich, who was killed in 1996 by Villanueva, who was a bodyguard for then-President Alvaro Arzu at the time. Villanueva since has served a commuted prison sentence for the killing and spent most of the year in jail as one of five suspects in the murder of Bishop Gerardi. COPREDEH paid on behalf of the Government the court-ordered damages award to the victim's survivors.

In April 2000, the Supreme Court annulled an appellate court's December 1999 verdict in the 1995 Xaman massacre case and remanded the case back to the trial court for a retrial. On January 16, the Constitutional Court denied the motions to suspend the case by the defense attorneys for 15 of the suspects. A trial date was set for July 3, but additional dilatory measures by the defense blocked the trial. In July the trial again was suspended pending the resolution of three appeals from defense attorneys to the Constitutional Court.

Intimidation of witnesses continued to be a problem; there were credible reports of the killing and threatening of witnesses. MINUGUA noted in its 12th Report that approximately nine potential witnesses associated with the Gerardi case died from undetermined causes. Others, including former police agent Jose Mauricio Gonzalez, Ruben Chanax Sontay, and Juana del Carmen Sanabria, left the country due to threats and intimidation.

For example, on January 21, Luis Carlos Garcia Pontaza was found dead in prison, where he was in custody on charges of assault and bank robbery. He was one of the first persons to appear at the scene of the crime following the murder of Bishop Gerardi, and was named as a witness by EMP Captain Lima Oliva. Before his death, Pontaza claimed to have been visited in prison on two occasions by prosecutors (during the tenure of lead prosecutor Otto Ardon) accompanied by EMP

agents, who offered immunity from prosecution and logistical assistance for future criminal activities in exchange for testimony implicating members of the Catholic Church hierarchy in the bishop's murder. The prosecutor assigned by the public ministry, Berta Julia Morales, quickly dismissed allegations that he was murdered. She argued that the death was a suicide stemming from emotional problems. The special prosecutor for organized crime publicly refuted Morales's claim. MINUGUA maintained that third parties were involved in his death to prevent him from linking state agents to organized crime.

The 1994 killing by police of four workers at La Exacta farm remained under investigation, and the criminal case remained suspended. The parties continued to seek a resolution through the IACHR's amicable settlement procedures. Negotiations continued regarding a settlement of the pending labor court charges, with intervention from the Labor Ministry and COPREDEH to install an Arbitrations Court to resolve the dispute. The Center for Legal Assistance in Human Rights (CALDH) continued to represent the families of the deceased, the injured, and those who lost their jobs and homes during the illegal eviction. In August 2000, the President signed an agreement with the IACHR in which the Government acknowledged its responsibility for failure to provide justice in the case and promised both to pay reparations and renew criminal investigations against those responsible for the violence. At year's end, an amicable settlement had yet to be negotiated. In a November report the International Labor Organization (ILO) Administrative Council urged the Government to take measures to investigate death threats against union leader Jose Luis Mendia Flores and to assure that he reoccupied his job in accordance with the judicial ruling. The ILO also noted the delay in the reinstatement of fired workers and the delay in justice in the case of four campesinos killed in 1994 for trying to organize a union.

On May 16, police detained Mario Rene Salazar, a suspect in the 1994 murder of Constitutional Court president Epaminondas Gonzalez Dubon. An appeals court ruling remained pending in the case.

On January 10, the court initiated the 8-day presentation of evidence phase of the trial of retired General Edgar Augusto Godoy Gaitan, Colonel Juan Valencia Osorio, and Colonel Juan Guillermo Oliva Carrera, for the 1990 murder of anthropologist Myrna Mack Chang. In May five audiotapes and one videotape containing the confession of EMP member Noel de Jesus Beteta and implicating Godoy and Osorio, were lost due to a failure to observe standard chain of custody procedures. In July the court reversed an earlier decision to disqualify the previous 2 years of the process and set a date of October 10 for the trial to begin. In September defense attorney Fernando Gutierrez Mendoza filed motions questioning the reversal as well as the legality of various documents submitted as evidence, such as sections of the "Nunca Mas" document and the Historical Clarification Commission (CEH) report. In September the First Court of Appeals agreed to hear their arguments, delaying the opening of the trial. In October judges from the Third Criminal Court, Yassmin Barrios and Ruben Joachin fined Gutierrez for filing irrelevant motions, a decision which he also appealed. In November the Second Court of Appeals revoked the three provisional motions granted by the First Court of Appeals to the defendants and ordered that a date for the trial be rescheduled. By year's end, no date had been set.

On August 1, the Inter-American Court on Human Rights agreed to the June request of the IACHR that the court hear the Myrna Mack case due to excessive delays of the application of justice in the Guatemalan courts. The decisions of the IACHR and the Court imply that the state, not the individuals implicated in the case, are to be tried by the court. In September Foreign Minister Gabriel Orellano, himself a former defense attorney for the military suspects in the Mack case, named Francisco Villagran Kramer, Vice President during the Administration of Romeo Lucas Garcia (against whom genocide charges are pending in the Guatemalan courts), as Judge Ad Hoc to represent the Government at the Court. In September a request to review the Guatemalan Law of Appeals was added to the petition.

In the case of the 1982 military massacre at Dos Erres, Peten, prosecutors relocated abroad two key witnesses and their families in exchange for their testimony against their former army comrades. On March 17, former army Sergeants Favio Pinzon Jerez and Cesar Franco Ibanez testified before a judge about the massacre of more than 200 unarmed civilians. In their testimony, they implicated several former comrades and gave detailed accounts of the massacre, before leaving the country under witness protection from the Prosecutor's Office. Based on their testimony, prosecutors obtained arrest warrants against 16 former members of the implicated army patrol. Defense attorneys contested 10 of those warrants, arguing that their clients should be protected from prosecution by the National Reconciliation Law, which grants limited amnesty for certain acts committed during the internal conflict. On April 3, days before stepping down, the then-seated Constitutional

Court upheld a procedural motion filed by defense attorneys in the Dos Erres massacre that under the Law of National Reconciliation, an appeals court must rule on whether the accused qualify for amnesty protection prior to issuance of an arrest warrant. However, the law specifically exempts human rights violators from amnesty protection. In an April 25 publication, MINUGUA reiterated the CEH and forensic evidence findings that the killing of unarmed civilians, including small children, clearly falls outside of the acts of war covered by the Law of National Reconciliation. In March 2000, the Government signed an agreement before the IACHR in which it recognized its institutional responsibility for the Dos Erres massacre. Represented by COPREDEH, the Government pursued settlement negotiations with the victims' survivors, who were represented by two NGO's—Families of the Disappeared in Guatemala (FAMDEGUA) and the Center for Justice and International Law (see Section 4). In the negotiations, the Government agreed in principle to prosecute aggressively the material and intellectual authors of the massacre, pay for reparations and other community assistance for the survivors, create a historical document that recounts what happened at Dos Erres, and erect a memorial in honor of the victims. In December 2000, in accordance with recommendations of both the IACHR and the Inter-American Court, the Government created a Special Commission to locate and identify families and victims of the Dos Erres massacre. On May 3, COPREDEH signed an amicable settlement with 301 victims of the massacre. The \$1.87 million settlement (14.5 million quetzals) represented reparations only and does not affect the ongoing legal case in the courts. On December 10, the Government made the payment. As part of the settlement, COPREDEH broadcast a short video on the massacre; FRG hard liners protested and the president of the organization was replaced (see Section 4).

On May 22, police arrested Jaime Aurelio Tun Luch, a former guerilla commander whose warrant for arrest had been outstanding for more than 10 years. Luch is accused of having participated in the 1988 massacre of 22 persons in El Aguacate, Chimaltenango. Two days later, he was released after his lawyer successfully argued that he was immune from prosecution under the Law of Reconciliation. However, in September the Supreme Court ruled the massacre at El Aguacate an act of genocide, and as those who commit such acts are excluded from protection under the law, the court ordered that the case proceed against the five guerrillas (including Luch) accused of having committed the massacre.

On May 4, two assailants abducted and detained at gunpoint the head of FAMDEGUA and her driver (see Section 4).

On June 22, the lawsuit filed by the CALDH on behalf of 10 communities in Quiche and Chimaltenango whose citizens were massacred by government security forces between October 1981 and March 1982 was transferred from prosecutor Carlos Ramiro Coronado to Mario Leal. The suit alleges crimes, including genocide, committed by the high command of the regime of former President Fernando Romeo Lucas Garcia. In addition to Fernando Lucas Garcia, the suit also names his brother (and former army Chief of Staff) Benedicto Lucas Garcia and former Defense Minister Luis Rene Mendoza as defendants.

On June 6, a suit similar to the Lucas Garcia suit was filed against the regime of former de facto president and current President of Congress retired General Efraim Rios Montt (see Section 4). Anselmo Roldan Aguilar, the legal representative of the Association for Justice and Reconciliation (an NGO) who presented the case, was attacked and severely injured within several weeks of filing the suit. There was no progress in the investigation of the assault during the year.

During the year, the Supreme Court ordered the Prosecutor's Office to conduct a new investigation into the 1993 murder of newspaper publisher and former presidential candidate Jorge Carpio Nicolle and three associates. Suspect Francisco Ixcoy Lopez, former Civil Defense Patrol member, remained at large, despite the fact that the Carpio family had located him and informed the authorities of his whereabouts. The criminal case remained open, but the Prosecutor's Office made no efforts to advance the case and the victim's family withdrew the charges. The case before the IACHR for the Government's failure to provide justice remained pending. The family of Jorge Carpio also requested that the IACHR send the case to the Inter-American Court, since they believed that justice was not being served in the Guatemalan courts. The Court accepted the petition in November. It is estimated that the Court may call as witnesses 20 or more former military officers and civil patrollers, as well as high-level government officials.

There was no progress on the investigation into the intellectual authorship of the 1985 murder of foreign journalist Nicholas Blake despite orders from both an appeals court and the Supreme Court. The three suspects, other than Vicente Cifuentes who was convicted for the murder in January 2000, remained at large at year's end, despite having been located by police and prosecutors in May 2000.

In November 2000, the Government reached a settlement with the Inter-American Court of Human Rights to pay reparations to the survivors of the 1990 killing of three street children—Julio Roberto Caal Sandoval, Jovito Josue Juarez Cifuentes, and Anstraun Villagran—and two indigent adults, Federico Clemente Figueroa Tunchez and Henry Giovanni Contreras, by police officers (see Sections 4 and 5). In 1999 the Court had ruled that there was sufficient evidence that police officers Samuel Rocaal Valdes and Nestor Fonseca were responsible for the deaths. The Court also ruled that the Government failed to protect the rights of the victims and provide them with justice. On January 10, the victims and their surviving family members received the Court-ordered reparations from COPREDEH.

There was no progress in the investigation into the 1999 kidnaping and murder of Edgar Ordonez Porta. In August the victim's brother, who had pursued an investigation into the involvement of members of Military Intelligence in the murder, left the country indefinitely after receiving threats to his family's safety.

In September members of FAMDEGUA reported that the Public Ministry still had not completed their investigation into the "Military Diary". When the document's existence was disclosed more than 3 years ago, FAMDEGUA assisted families who had members on the list in the filing of 75 criminal cases against the military. FAMDEGUA representatives stated that investigations are stalled partially due to fears of reprisal that prevent the victims' families from actively pursuing the cases.

Exhumations of clandestine cemeteries continued throughout the year. Most of the bodies recovered have been those of victims of military or paramilitary killings in the early 1980's. Forensics groups use the information obtained from the exhumations to verify eyewitness reports of massacres—of which the CEH recorded 669—and to determine, at least in general terms, who might have been responsible. Forensic research and DNA testing have identified some of the remains. The forensic evidence also has been used in some criminal cases.

In February the Guatemalan Forensic Anthropology Foundation (FAFG) located 23 human remains in a former military camp in San Jose Poaquil, Chimaltenango. The Coordinator for Guatemalan Widows noted that family members of the victims were threatened before going to identify the remains of their loved ones. In March the remains of 24 massacre victims, primarily women and children, were reinterred in Pujujil, Solola. In May the FAFG unearthed 65 remains from some 20 communal graves in the communities near a former military camp in San Martin Jilotepeque, Chimaltenango. In January members of the FAFG noted that according to testimony, soldiers left the camp in 1986, but returned in 1989 to clean up the site. In June a total of 28 victims of a 1982 massacre by the army at Chiche, Quiche were reinterred. Also in June, the FAFG unearthed 21 victims of both the guerillas and the army in common graves in the town of Sepur Zarco, Izabal. In July the remains of 21 persons killed in a 1982 massacre conducted by the Guerilla Army of the Poor in Salacuín, Alta Verapaz were reinterred. Also in July, 40 remains were exhumed from a former military camp in Zacualpa, Quiche. In addition to 30 adult remains, 8 adolescent and 2 children's remains were located. In August the Mutual Support Group NGO announced that along with the FAFG, it had exhumed 19 cemeteries and located 28 remains of men, women, and children in Colotenango, Huehuetenango. According to the Diocese of Quiche, through the first half of the year, 72 cemeteries were exhumed in Nebaj. In them were located 114 remains, of which 51 were men's, 28 were women's, and 35 were children's. Also in August, indigenous leader and 1992 Nobel Peace Prize laureate Rigoberta Menchu Tum announced that she would solicit the assistance of a Mexican forensic anthropology team to work in conducting exhumations.

In December 2000, a Spanish court decided not to hear a criminal complaint filed in 1999 by Rigoberta Menchu against eight former military and civilian leaders for human rights abuses including genocide, torture, and terrorism committed during the 36-year internal conflict. The defendants included former de facto president and current President of Congress retired General Efraín Ríos Montt, former President and retired General Fernando Romeo Lucas García, and former de facto President Oscar Humberto Mejía Victores. The decision was based in part on the fact that it was not clear that justice in the case could not be achieved in Guatemala, since a genocide case had yet to be tried by the country's court system.

There were plausible allegations of politically motivated killings by nonstate actors during the year, with only limited willingness on the part of prosecutors to investigate such murders. In some of these cases, evidence was not sufficient to conclude whether the killing was politically motivated.

On November 11, 2000, the son of retired General Otto Pérez Molina, Lieutenant Otto Fernando Pérez Leal, was attacked while driving with his wife and 8-month-old daughter. On February 21, several days before Pérez Molina was to announce the formation of a new political party, masked gunmen attacked and slightly wound-

ed his daughter Lissette Perez Leal de Solorzano. The same day, masked gunmen shot and killed Patricia Castellanos Fuentes de Aguilar who had just departed her house after meeting with Rosa Maria Leal, Perez Molina's wife. On May 15, Castellanos' widower, Francisco Aguilar Alonzom, who dedicated himself to clarifying the circumstances of his wife's death and created a citizens group opposed to violence and impunity, was shot and killed in his car. The prosecutors assigned to the cases, including Berta Julia Morales, failed to develop plausible motives for the murders despite evidence of a pattern of killings conducted by a sophisticated and well-coordinated organization. The Interior Minister prematurely dismissed the possibility of a political motive for the crimes. MINUGUA uncovered evidence of a separate, parallel investigation by the National Defense Military Staff—which normally does not investigate criminal cases. Human rights groups claimed that the killings were politically motivated.

On May 5 Sister Barbara Ann Ford was killed in Guatemala City. The crime was characterized by the PNC and the Minister of Interior as an attempted carjacking, but various human rights groups did not rule out the possibility of a political motive. Ford worked on mental health projects with war victims in Quiche and participated in the REHMI project. In November Ford's colleague, Sister Virginia Searing, became a plaintiff in the case. Little progress had been made in the investigation at year's end.

There was little progress in the investigation of the February 2000 murders of Erwin Haroldo Ochoa Lopez and Julio Armando Vasquez, two environmentalists working for the National Council for Protected Areas, a governmental environmental protection agency. In August 2000, retired army Colonel Sergio Ontoniel Ponciano was arrested and charged with the murder. However, there was no further action in the case during the year.

The investigation into the October 2000 murder of Maura Ofelia Paniagua Corzantes, civil law coordinator for the law clinic at San Carlos University, was ongoing at year's end. In February, the prosecution team solicited telephone records and sought the cooperation of police investigators and other prosecutors in its ongoing investigation.

In May the Prosecutor's Office appointed a special prosecutor, Leopoldo Liu, to investigate killings of and threats against lawyers, judges, and prosecutors (see Section 1.e.). The Supreme Court contracted a team of bodyguards trained in providing personal security. At year's end, some 60 judges received such protection.

There were no developments during the year in the investigation of the 1999 murders of Zacapa Municipal Workers Union leaders Robinson Morales Canales and Angel Pineda, both of whom had protested labor rights violations and corruption in the Zacapa mayor's office.

There were allegations of possible acts of social cleansing in connection with the July prison break (see Section 1.c.).

The number of attempted lynchings and resultant deaths increased compared to 2000, but did not reach the very high levels of 1999. MINUGUA reported 75 lynchings by year's end, which resulted in 27 deaths and 140 injuries. These figures are significantly higher than in 2000, when 52 lynchings resulted in 32 deaths and 83 injuries. Since MINUGUA began tracking individual lynching cases in 1997, up until June of 2001, it recorded a total of 251 cases. Of these, only 48 of them, or 13 percent, have gone to trial. In only 29 cases have sentences have been handed down. Of these sentences, 20 cases, or 6 percent of the total, resulted in convictions.

MINUGUA noted that lynchings, especially those that result in the death of the victims, increasingly are planned and premeditated events. There continued to be cases in which municipal officials or other local leaders were involved in lynching attempts. The large majority of the attacks took place in rural areas most severely affected by the internal conflict, which still suffer from the lowest levels of human development. MINUGUA has identified a number of important causes for the continued incidence of lynchings. First, the State has failed persistently to provide justice or security services in the interior of the country. Statistically, there is a direct relationship between the distance that a lynching occurs from a municipal capital and the probability that the result of the lynching will be the death of a victim. Second, civil authority has been slow to supplant that of the Civil Defense Patrols, which during the armed conflict conducted summary hearings in the town square and publicly executed alleged criminals or guerrillas. In July the Supreme Court President corroborated MINUGUA's finding that former members of the Civil Defense Patrols were involved in a significant number of lynching cases.

There were numerous attempted lynchings in which police were able to save the victims before they were wounded severely or killed. In March some 200 persons tried unsuccessfully to lynch a local justice of the peace in Ixchiguan, San Marcos. In July a lynch mob in Chahal, Alta Verapaz, threatened another judge. After inter-

vening successfully to stop the lynching, the mayor and police requested that the Supreme Court recall the justice of the peace. Reportedly, the organizers of the attempted lynching were opposed to the autopsy proceedings the justice had ordered for a supposed suicide victim. In December residents of Ulpan, Alta Verapaz attempted to burn alive four men accused of killing an eleven year old girl. Police and fire department officials negotiated the release of the men for arrest. In April a court convicted Camilo and Oscar Francisco de Leon Alvarez for a 1996 lynching in Momostenago in which 4 persons were killed. The court sentenced them each to 100 years in prison.

On June 25, the court absolved three persons accused of stoning a Japanese tourist to death in April 2000. The court requested that the investigation continue against Serapio Chavez and Juan Ramos, whose responsibility in the case remained unclear.

On March 8, the judge overseeing the investigation into the July 2000 lynching of 8 men at a roadblock near Xalbaquiej, Chichicastenango agreed to issue 41 arrest warrants for the alleged ringleaders at the Prosecutor's Office's request. However, by year's end the police had not arrested anyone.

While the justice system has been slow to convict and imprison perpetrators of lynchings, the Government has demonstrated an increased willingness and ability to investigate and prosecute lynching offenders. According to press reports, in July, the high impact court in Quetzaltenango handed down 50-year prison sentences to Cruz Sojom Coti, Alonso Tulul Guarchaj, Francisco Balux Lopez, and Francisco Tahay Tzaj for a 1997 Nahuala lynching.

In January MINUGUA along with the justice system, carried out an educational campaign on lynchings at workshops in Solola. The campaign was designed to strengthen the role of educators, community leaders, and local officials in the prevention process by explaining the functioning of judicial procedures. Despite improvements in the Government's response to deter lynchings and punish those responsible, growing public feelings of insecurity led some communities to form Local Security Councils—as provided for in the Law on the National Civilian Police—to protect themselves from criminal activity. These organizations were created primarily in Quiche department, with others believed to exist in Baja Verapaz, Solola, Huehuetenango, and San Marcos departments.

b. Disappearance.—There were no reports of politically motivated disappearances during the year; however, MINUGUA verified two cases of the disappearance of persons during detention by security forces.

The PDH reported nine cases of forced disappearance during the year. Many of the victims were members of gangs linked to prisoners who escaped from the penitentiary in Escuintla in July.

Neither the Directorate General of the police nor the Prosecutor's Office took any actions during the year to clarify the May 2000 forced disappearance of Mynor Pineda Agustin after his arrest with two other persons for kidnaping.

On May 8, the Human Rights Ombudsman's Office concluded that the April 2000 disappearance of University of San Carlos professor Mayraz Gutierrez Hernandez was a "crime of passion" committed by someone who knew Gutierrez. However, these conclusions contradicted a number of elements of established evidence, including those that the Human Rights Ombudsman's Office itself had issued earlier. In its 12th report, MINUGUA expressed the concern that the same manipulation that distorted the Prosecutor's Office investigation appeared to have influenced the Human Rights Ombudsman's Office findings as well. Gutierrez was a social activist whose political activities included social research into international adoptions, women's rights, and a range of human rights causes. Prosecutors had pursued inaccurate theories that Gutierrez was an active member of a guerrilla organization and either left voluntarily or was kidnaped by her guerrilla comrades. The case was pending before the IACHR at year's end. In August prosecutor Sara Payes announced that she would begin a series of exhumations designed to locate Gutierrez's body.

On September 5, retired General and former de facto president from 1983 to 1985, Oscar Mejia Victores, went before a trial court for his alleged role in the disappearance of Fernando Garcia in 1984. The case was brought by survivors of the victim as well as various human rights organizations, including the Archbishop's Human Rights Office, the Human Rights Ombudsman, and the Mutual Support Group. The judge in the case determined that there was insufficient evidence presented to try Mejia Victores, but the decision immediately was appealed.

Disappearances in high-profile cases from past years remained unresolved at year's end. For example, there was no progress in the investigation into the 1999 disappearance of prominent indigenous leader and FDNG party member Carlos Coc Rax. Nor was there progress in the disappearance cases of Arnoldo Xi, an indigenous- and peasant-rights activist who reportedly was shot and abducted in

1995; Lorenzo Quij Pu, a human rights activist who disappeared in 1994; and Juan Jose Cabrera ("Mincho"), the guerrilla commander reportedly captured by the EMP in 1996 while taking part in a kidnaping.

In June groups associated with the National Human Rights Coordinator filed 5,000 habeas corpus briefs on behalf of individuals who disappeared between March 6, 1965, and October 19, 1993. According to a spokesperson from one of the human rights organizations, the majority of the individuals were young persons between the ages of 20 and 25 when they disappeared. The briefs were processed immediately by the Supreme Court and sent to the sentencing court where they would be investigated. Of the nearly 45,000 cases of disappearances noted by the CEH, the Mutual Support Group alone has documentation of some 10,000 cases. It noted that over the last 10 years, even without a national exhumation plan in place, more than 1,000 remains have been unearthed in exhumations (see Section 1.a.).

In August 2000, the Archbishop's Human Rights Office released its report on children missing since the armed conflict. The report stated that of the documented cases, 86 percent were of forced disappearances and the remaining 14 percent were attributable to diverse causes associated with the conflict, such as communities fleeing attack. Of the documented cases of forced disappearances, the military was responsible for 92 percent of the cases; Civil Defense Patrols were responsible for 3 percent; guerilla forces were responsible for 2 percent; and the remaining 3 percent could not be attributed to anyone. In 68 percent of the forced disappearances, boys and girls were taken directly to a military post of one kind or another. Approximately 93 percent of the victims were Mayan children, the majority of whom were between 1 and 4 years old. On June 11, governmental entities such as COPREDEH as well as NGO's formed the National Commission for the Search for Disappeared Children, in accordance with one of the recommendations of the Historical Clarification Commission. The Commission is to search for children who disappeared both during the conflict and since. In October the Archbishop's Office sponsored the First Encounter of Relatives of Disappeared Children, which brought together family members of those children who disappeared during the armed conflict.

In December 2000 the Inter-American Court had ordered the Government to investigate, publicly identify, and try those responsible, and award damages for its violations of the rights of guerrilla leader Efraim Bamaca Velasquez in 1992. In early May, the family agreed in principle to enter into negotiations with COPREDEH to reach an amicable solution to the case. In April there were credible reports of a break-in and theft of a computer from the home of a human rights activist involved with the disappearance as well as renewed death threats against one of the case's key witnesses and his family. In November during an audience with the Court to discuss the awarding of damages for psychological trauma caused by the disappearance and death of her spouse, Jennifer Harbury asked that the Government be ordered to relinquish Bamaca's remains. The resolution is pending.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution provides for the integrity and security of the person and prohibits physical or psychological torture of prisoners; however, there were credible reports of torture, abuse, and other mistreatment by members of the PNC during the year. These complaints typically involved the use of excessive force during arrests, interrogations, or other police operations. Criminal Investigative Service (SIC) detectives continued to torture and beat detainees during interrogation to obtain forced confessions. The Government and the PNC showed decreased willingness to investigate, prosecute, or otherwise punish officers who committed abuses. The PNC transferred some cases of alleged torture to the Prosecutor's Office. There were a significant number of murder victims whose bodies demonstrated signs of torture or cruel treatment (see Section 1.a.).

In its 12th Report on Human Rights, MINUGUA investigated 33 complaints of torture, of which 27 were confirmed. These figures are nearly double those of the previous reporting cycle, during which MINUGUA investigated 13 complaints of torture and confirmed 12 cases. The majority of these cases involved abuse or mistreatment of suspects and detainees by PNC officers or SIC detectives. The police sometimes punished the use of excessive or illegal force by officers, but more often offenders merely were transferred to a different location. In several cases, there was credible evidence that police officers and their superiors altered documentation, falsified evidence, bribed and intimidated victims and witnesses, or otherwise obstructed the investigation and prosecution of police misconduct. A total of 467 PNC officers had been dismissed by year's end.

On January 21, Luis Carlos Garcia Pontaza, a witness at the scene of the murder of Bishop Gerardi, was found dead in prison (see Section 1.a.).

On April 8, police unlawfully detained Julio Alberto Casasola and William Cotom Rodas for the theft of a vehicle. They were both interrogated and tortured by SIC

detectives. Although suffering from grave injuries, they were transferred to a detention center and it was not until the following day that they were taken to a hospital to receive medical attention. Casasalo died April 11 as a result of the blows that he received.

On June 7, a judge ordered the released of three officers originally charged with the strangulation of Luis Armando Colindres (see Section 1.a.).

In February 2000, Augusto Marroquin Carreto was taken from his cell in the Quetzaltenango detention center by SIC detectives and interrogated about his alleged involvement in the death of another prisoner. The detectives beat and tortured him until he confessed. Several high-ranking PNC and SIC officers attended the interrogation. In February 2000, SIC officers from Quetzaltenango tortured Pablo Albani Edelman Bethancourt and Alex Guillermo Reyes Monterroso into confessing their membership in a gang of car thieves by beating them and asphyxiating them with rubber hoods.

Casa Alianza reported that although the number of incidents of abuse of street children was roughly equal to 2000 levels, relatively few incidents were committed by members of the security forces (see Section 5). Most acts of violence against street children were committed by individuals, by private security guards, or in gang- and drug-related violence among street children. Casa Alianza reported 45 cases of abuse of street children, in which 16 police officers and 2 private security guards participated. Prosecutions and convictions for crimes against street children continued to be very rare.

Following the extensive August protests against tax increases, a judge announced that at least 15 police officers would be tried on charges of brutality and use of excessive force (see Section 2.b.).

There were no reports that police used excessive force in evictions of landless peasants occupying farms in attempts to gain land during the year. Because of violent confrontations in the past, the Government continued its policy of securing an eviction order from a court, informing the occupiers of the coming eviction, and sending in a lightly armed police contingent to end the occupation by using dialog and verbal persuasion. The Ministry of Interior carried out numerous evictions without incident during the year using this policy.

Corruption continued to be a problem, and there were credible allegations of involvement by individual police officers in criminal activity, including credible allegations of police involvement in kidnappings. In October Humberto Portillo Gonzalez and Marvin Haroldo Ramos Rosales were arrested for the October 9 kidnaping of a prominent businessman's wife. Portillo and Ramos were employed by the Protection and Security Service, a unit of the PNC that provides protection to public officials and diplomats. Police continued to search for a third officer who was also allegedly involved. Allegations continued that, rather than discipline its officers, the police often just transferred them to a different part of the country. Transfers are a common practice and are used to avoid personal problems, corruption, and questions of mistreatment of detainees. Impunity for police who commit abuses remained a serious problem.

All PNC members were required to meet minimum education requirements and pass an entrance examination. Staff of the former National Police (PN) who wish to integrate into the new police structure must complete successfully a 3-month retraining course. In practice, however, many of the 9,376 former PN who are now serving in the PNC have not taken the course. The Director of Personnel attributes the problem to budget cuts and the constant turnover in PNC leadership that affects the personnel system. There also were screening procedures to detect suspected human rights violators and officers involved in criminal activities. New recruits had to complete a 6-month training course before entering on duty. The training course, developed with the assistance of MINUGUA, foreign governments, and international organizations, includes extensive human rights components. However, some observers claimed that the retraining course was not sufficiently rigorous, and that relatively few members of the PN were screened out during retraining, allowing the incorporation of some poorly qualified PN members into the ranks of the PNC.

Pursuant to the Peace Accords, former members of the military were eligible to apply for positions in the police but were required to apply like other civilians and complete the 6-month training course required of all civilian applicants. However, the Government incorporated some former members of the military and the former Ambulatory Military Police (PMA) into the ranks of the PNC upon the completion of only the shorter course intended for current members of the PN. A total of 10,144 officers from prior security forces have taken the retraining course since its inception. The former PMA members were not subjected to a competitive selection process but were screened carefully before they were allowed to enter the program. In May 150 former PMA agents protested in front of the Congress, demanding \$6,410

(50,000 quetzals) each as part of a severance package that they claimed was due them. In November the Government reached the 1999 goal established by the Peace Accords of putting 20,000 police on active duty and at the year's end PNC officers numbered 20,452. Police representation outside of the capital is improving, but approximately two-thirds of those police districts remain 60 to 75 percent staffed. Approximately 10 percent of the force is female and 14 percent indigenous.

In 1998 the PNC accepted some 60 police candidates from indigenous communities in the Ixil region—approximately 30 of whom graduated on their first attempt—to ensure that PNC personnel in those communities would be proficient in the local language and able to operate effectively in those communities. According to MINUGUA, approximately 7 percent of PNC officers speak an indigenous language. Efforts have improved to assign officers that speak an indigenous language to a town where their skills can be put to use. Approximately 75 percent now work in the geographic area of their particular linguistic competency.

According to the Interior Ministry, there were more than 25,000 private security agents. In September, MINUGUA reported the existence of 81 legally functioning private security companies and another 73 that had not completed the required procedures. There are reportedly no investigations underway by authorities, despite awareness of the problem. In January the Association of Private Security Firms acknowledged that their industry fell under control of the Interior Ministry according to Congressional Decree 73-70 and Decree 11-97 of the Law on National Civilian Police.

The ORP performs internal investigations of misconduct by police officers. Despite greater numbers of police officers on duty throughout the country, and less public apprehension about filing complaints against the police, the total number of such complaints remained roughly the same as the previous year. The ORP has a strong corps of investigators and has shown a considerable degree of improvement in professionalism; however, their independence and effectiveness has been hampered to some degree by the lack of support from the PNC leadership and there were isolated cases in which ORP investigators appeared to participate in cover ups of police misconduct. The ORP reported that in 2001, it received 1,693 complaints, including 29 cases of homicide, 131 cases of abuse of authority, 136 cases of threats, 201 cases of robbery, 7 cases of kidnaping, 63 cases of unlawful detention, and 150 cases of corruption. The ORP received 1,581 complaints in 2000, including 43 of homicide, 222 complaints of abuse of authority, 104 of robbery, 141 of corruption, 108 of improper conduct, 107 of threats, and 72 of illegal detention. In cases in which sufficient evidence suggested that criminal acts were committed, ORP investigators forwarded them to the Public Ministry for further investigation and prosecution. In 2001 the PNC fired 467 officers. By year's end, the ORP had closed 878 cases, compared with 870 cases in 2000; the investigators found 35 percent of officers culpable and exonerated 65 percent. Most observers still considered the PNC to be a significant improvement over the PN.

A study by the human rights NGO, Mutual Support Group, found that in the month of February, 75 persons were killed and 100 wounded by gun shots compared to 45 killed and 46 wounded in February of 2000. A compilation from the same source of figures for the first 6 months of the year revealed: 14 cases of extrajudicial executions, 479 murders, 255 gunshot wounds, 25 rapes, 23 kidnapings, and 22 disappearances. A police study of crime over the 9 months from August 1, 2000, through April 30 revealed homicides numbering 2,328 or the equivalent of 1 homicide for every 5,000 persons. The report found that nearly 70 percent of all crime took place in the capital and the primarily ladino southern and eastern parts of the country.

No active members of the military serve in the police command structure, but in March 2000, Congress enacted a law enabling the Government to employ the army to continue to support the police temporarily in response to an ongoing nationwide wave of violent crime. In 1998 and 1999, President Arzu had ordered the army to support the police temporarily. While these measures were popular politically, given the public's preoccupation with crime and security, they left open the possibility of renewed military involvement in internal security functions, a role prohibited by the Peace Accords. Under the existing law, military personnel are not subordinated clearly to police control during joint patrols or operations.

There was been no progress in the case of Sister Dianna Ortiz, who was kidnaped, tortured, and sexually abused by a group of armed men in 1989. The prosecutor on the case, Braulio Guzman, renewed his efforts to finalize the investigative phase of the trial in the fall of 2000 despite logistical constraints. At year's end, there had been no response from the victim or her legal counsel to the renewed request. The court is empowered to close the case for lack of evidence should nothing further be submitted.

On March 13, Lieutenant Colonel Luis Alberto Linares Perez filed a complaint with the Prosecutor's Office against Minister of Defense, Eduardo Arevalo Lacs, Army Chief of Staff, Lionel Mendez Estrada, and Army Inspector General, Carlos Eddi Radford Bonilla for abuse of power, privation of liberty, unwarranted discharge, and cover up of corruption. During a meeting at the army's Center for Military Studies, Lieutenant Colonel Linares asked top officials about the status of investigations into alleged corruption at the Bank of the Army, the pension system, and the military medical center. Linares's question related to the Prosecutor's Office's investigation of 9 generals and 10 colonels for alleged corruption and fraud involving about \$6 million (45 million quetzals). Brigadier General Mario Mamerto Hernandez Ponce and Colonel Alfonso Ruiz Alvarez, in particular, face charges of fraud and misappropriation of funds belonging to the military pension fund. Lieutenant Colonel Linares was sanctioned by his superiors for the disrespectful manner in which he represented his questions and was put into detention for 15 days. In his criminal complaint, filed with the Special Prosecutor Against Corruption of the Public Ministry, Linares noted that his and his family's safety had been threatened when someone fired shots at his home. Eventually Linares was reassigned from the capital to the Military Reserve Command in Totonicapan. According to MINUGUA, the Directorate for Intelligence of the National Defense Staff contacted several officers to deter them from testifying when summoned by prosecutors and pressured Linares to drop the case. The original prosecutor assigned to the case was reassigned without explanation.

Prison conditions remained harsh but generally not life threatening. The prison system continued to suffer from a serious lack of resources, particularly in the areas of prison security and medical facilities. In November 2000, the Government reported that prison capacity nationwide was 6,170 persons and that there were approximately 6,700 inmates. The majority of the prisoners were not serving prison terms but were held in pretrial detention. Pretrial detainees often are separated from convicted criminals. Many are released either on good behavior or because they never are sentenced. Some institutions were overcrowded; for example, in August 2000, the Preventive Detention Center for Men in Guatemala City was approximately 75 percent over its designed capacity. In February 2000, a project to improve prison infrastructure began, involving improvements to fences and walls to prevent further escapes and installation of better water, electricity, sanitation, and emergency systems. In the spring of 2000, a new maximum security facility opened. Prisoners continued to complain of inadequate food. Corruption—especially drug-related—was widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest. The frequency of jailbreaks continued to be a matter of serious public concern, although the number of successful escapes appears to have declined. Several escaped convicts eventually were recaptured. The military continued to provide perimeter security for various prisons, as it has done since 1998.

On March 8, the Interior Minister fired the Director of the Preventive Detention Center in Zone 18 of the capital, Arimiro Rivas Urizar due to charges of corruption. According to a police officer, cell phones, pistols, and knives were found in the cells of prisoners allegedly planning a jailbreak.

Shortly after taking office in March, Yuri Bucaro, the Director General of the Penitentiary System, told reporters that the system had grave problems, and that he was concerned about jailbreaks. Among other problems, he identified a lack of professional training among prison staff, administrative chaos within the bureaucracy, corruption and an inability to fire corrupt employees, a lack of physical control inside of prisons, and a chronic shortage of the resources needed to effect meaningful organizational change. Of 950 guards on the payroll, at any given time only 237 are working in 1 of the 17 facilities around the country. The average ratio is 31 prisoners per guard. On April 24, Bucaro announced the creation of a School for Prison Studies to address the need for professionalization of the prison system's staff.

On June 17, 78 prisoners escaped from the maximum-security facility in Escuintla without having to break a single lock. The primary organizers of the break reportedly arranged to be moved from one sector of the prison to another with the assistance of corrupt judges (see Section 1.e.). In response to the initial jailbreak, the Government instituted a State of Alarm that lasted from June 18 to August 18, during which rights to legal detention, search and seizure, and freedom of movement were suspended in principle (see Sections 1.d. and 1.f.). While the justification for the State of Alarm was to facilitate the arrest of the 78 escapees, by the year's end, authorities had only recaptured 46, 10 were killed, often under questionable circumstances, and 22 others remained at large. On August 14, four escapees were shot and killed in zone seven of the capital. According to investigators, a rival gang was responsible for the attack. Numerous activists raised the question of whether

the killings were instead an act of social cleansing by authorities or parastatal elements.

According to press reports, the organizers of the June 17 break paid off prison officials, including then-director of the facility Edwin Nehemias Gonzalez Miranda. Gonzalez's wife, Heydi de Leon Hernandez, worked as a guard in the prison, and also was included in the investigation of the breakout. Ultimately, 20 guards, 2 wardens, the director, and the vice director of the prison were taken into custody for allegedly collaborating with the breakout. In its September report, MINUGUA noted that the prison break had been planned for months and was made possible through extensive collaboration on the part of authorities from the prison system and the Interior Ministry.

The unit from Military Zone 12, charged with providing perimeter security at the prison, was suspiciously not present at the time of the escape on a Sunday afternoon. On June 27, military units took over the maximum-security facility in Escuintla. On July 3, the Interior Minister established a Consultative Commission on the National Penitentiary System to analyze the existing system and come up with recommendations for systematic improvements. On September 6, the Commission issued its preliminary report to the President. It found that prisoners often maintained control inside of prisons because they are better organized than guards. The report identified a high level of corruption and low level of technical training among guards. The Commission also identified three systemic shortcomings: Lack of independence of the prison system from the Interior Ministry; a lack of legislation clearly establishing technical, juridical, and doctrinal criteria; and a serious problem of under-funding.

The police reportedly thwarted a second jailbreak in Escuintla on September 6. When police went into the prison, they found that the drugs, electronic equipment, and weapons that they thought they had removed were once again present in abundance, clearly demonstrating that corruption continued to allow extensive illicit trafficking into the prison.

On September 23, another attempted jailbreak left 10 prisoners injured after an exchange of gunfire with prison guards at the Canada Prison Farm in Escuintla. The prisoners appeared to be taking advantage of the chaos of the activities planned to celebrate Prisoner's Day to make an escape. In their investigation, police found fire arms, drugs, and bottles of liquor inside the facilities.

The 433 female prisoners in the penal system generally are held in facilities separate from men; however, the conditions are equal. The Government permitted access to prisons by family members.

On November 10, inmates of the Orientation Center for Women in Fraijanes rioted after the director restricted the visitation policy to permit family members (and not friends or boyfriends) to enter. The inmates further protested that they had been beaten by the guards for opposing the regulation. One woman was injured by firearm and allegedly the tear gas used by the guards to subdue the rioters intoxicated 12 children who reside at the prison with their mothers. Security did not permit the entry of emergency medical personnel to attend to the injured.

In March women inmates in the Santa Teresa prison reacted violently to more restrictive security measures. The women complained of being physically and sexually abused by prison authorities. One inmate, Estela Castaneda died as a result of injuries sustained from a tear gas canister fired into the prison. Again in April, the women inmates of Santa Teresa took five guards hostage in protest over the living conditions inside the prison and alleged abuse by security officials. The riot lasted more than six hours and culminated in a shootout between the prisoners and the guards attempting to rescue their colleagues.

Immigration detention facilities do not always keep female detainees separate from the male population.

Minor children are held in separate detention facilities. According to a December 2000 MINUGUA report, there are only five juvenile delinquent facilities in the country; approximately 39 percent of the children housed in these facilities have sought protection and have committed no offense.

Law enforcement authorities and justice sector workers continued to work without a current Minors' Code. The version of the Minors' Code proposed by the FRG-led Congress has yet to supplant the outdated 1979 Code presently in force. In May the Supreme Court presented to the Guatemalan Forum a project to modernize the juvenile justice system. The project is intended to streamline legal cases involving minors and train judges about the human rights of children.

The vast majority of juveniles detained by authorities are between 16 and 18 years old; 84 percent are boys. The Secretariat for Social Welfare runs four Centers for the Treatment and Orientation of Minors: one for girls and three for boys. The Centers do not separate delinquent children from children who are victims. Officials

do not separate adequately those who have been convicted and are serving a sentence from pretrial detainees; those who are serving time for minor infractions are often held with those who have committed serious offenses. Adequate sanitation, hygiene, and nutrition are persistent problems within the underfunded system. On January 28, inmates at the juvenile detention center in the capital's downtown area wounded a guard, burned mattresses, and destroyed doors, windows, and bathrooms. Six adolescents escaped but were recaptured quickly in the confusion. The adolescents complained of mistreatment and insufficient food.

The Government permits prison visits by independent human rights monitors, public defenders, and religious groups.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention; however, there were frequent credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers frequently fail to satisfy legal requisites. The Constitution requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless he is caught in the act of committing a crime. Police may not detain a suspect for over 6 hours without bringing the case before a judge. Once a suspect has been arraigned, the prosecutor generally has 3 months to complete his investigation and file the case in court, or seek a formal extension of the detention period. The law also provides for access to lawyers and bail. During June and August, the State of Alarm suspended these constitutionally established freedoms.

There is no comprehensive, reliable data on the number of arbitrary detentions, although most accounts agree that security forces routinely ignored writs of habeas corpus in cases of illegal detention. The PDH recorded 53 cases of illegal or arbitrary detention by the PNC. In its 12th report, MINUGUA investigated 110 cases of illegal or arbitrary detention, and confirmed 88 of them. These figures again reflected an increase over the previous reporting cycle. From October 1999 through June 2000, MINUGUA investigated some 31 cases of illegal or arbitrary detention, and confirmed 23 cases.

A study of the due process of minors in detention found that 95 percent of arrests of minors are without a warrant. Of these cases, 87 percent never go to trial. When the court system analyzed arrest warrants for juveniles it found such reasons as having tattoos or scandalous behavior in public.

According to a registry maintained by the prison system, during the year, there were a total of 8,608 prisoners throughout the country; 7,303 had been accused of committing common crimes, and of those, 3,014 had been sentenced, leaving 4,289 awaiting trial. The law sets a limit of 3 months for pretrial detention; however, longer detentions still occurred routinely. Prisoners often were detained past their legal trial or release dates, sometimes for years. Prisoners were not released in a timely fashion after completing their full sentences due to the failure of judges to issue the necessary court order or other bureaucratic problems.

The Constitution prohibits exile, and it is not practiced as a matter of policy. However, self-exile is a very common response by citizens who feel threatened or intimidated.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judicial system often fails to provide fair trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. The courts' response to human rights violations, as well as to general criminal activity, has been inadequate, although during the year the Government achieved convictions in a few important human rights cases from previous years (see Section 1.a.). However, many high-profile human rights cases remained pending in the courts for long periods as defense attorneys employed numerous dilatory appeals and motions. Courts sometimes took months to resolve even patently frivolous appeals. There were numerous credible allegations of corruption, manipulation, and intimidation in the judiciary. There also were credible allegations of parallel investigations by military intelligence—in the Bishop Gerardi and Ordonez Porta murder cases—that interfered with the justice system's efforts to investigate or prosecute those responsible (see Section 1.a.). Intimidation of witnesses continued to be a problem; there were credible reports of the killing and threatening of witnesses (see Sections 1.a. and 1.c.).

Judges and prosecutors continued to receive threats whose purpose was to influence pending decisions or to seek reprisal for past decisions. Death threats and intimidation of the judiciary were common in cases involving human rights violations, particularly when the defendants were active or former members of the military, military commissioners, or former members of Civil Defense Patrols. Witnesses are often too intimidated to testify. With relatively few exceptions, plaintiffs, witnesses, prosecutors, and jurists involved in high-profile cases against members of the military reported threats, intimidation, and surveillance. For example, the lead pros-

ecutor and his staff in the Bishop Gerardi murder investigation reported wire-tapping, surveillance, and frequent death threats. In addition, at least three judges and one judicial staff member in the Gerardi case reported threats and intimidation, including surveillance (see Section 1.a.). A March 2000 report at the U.N. Human Rights Commission noted that many judges and prosecutors are denied health insurance because the threats and intimidation that they receive make their jobs too dangerous. The Government allocated more resources to the judiciary's physical security, including providing protective details for the judge and at least some members of the prosecution team in the Gerardi case and witnesses in the SITRABI and Dos Erres cases (see Sections 1.a. and 6.a.). The Supreme Court hired a team of bodyguards (see Section 1.a.). The Government also devoted more resources to providing for witness protection abroad for key witnesses in the Gerardi and Dos Erres cases (see Section 1.a.). During the year, the Public Ministry spent approximately \$275,000 (2.5 million quetzals) on its witness protection program. In May the Prosecutor's Office appointed a special prosecutor, Leopoldo Liu, to investigate killings of and threats against lawyers, judges, and prosecutors. By mid-year, Liu had 55 cases in his caseload (see Sections 1.a. and 1.c.). However, the unit, lacks the personnel and resources necessary to carry out its mission.

On March 23, at least seven shots were fired at the house of Conchita Mazariegos, President of the Constitutional Court, who was not at home at the time. The Court was hearing the so-called Guategate case brought against more than 20 members of Congress who allegedly altered a law after it was voted on but before it was published (see Section 3). Several months after the event, neither the Prosecutor's Office nor the Investigative Unit had interviewed key witnesses to the event.

On June 14, and again on September 18, a military helicopter circled over the house of Judge Yassmin Barrios at a very low altitude. The police detail guarding the house reported that the helicopter did not belong to the Interior Ministry, which oversees the police, but to the military. Army officials dismissed the first event as coincidence. The first incident occurred a week after the three-judge court, to which Judge Barrios belongs, convicted three members of the military of murdering Bishop Juan Gerardi (See Section 1.a.). The Judge also recently had dissented from her colleagues on the Third Court when they decided to delay on procedural grounds the trial of military personnel for the murder of Myrna Mack (See Section 1.a.). On March 21, 2 days before the start of the Gerardi trial, a grenade was thrown at her home and as a result she was put under 24-hour police protection. The presence of military helicopters is the first apparent linkage of the military to acts of intimidation.

On May 10, the three-judge tribunal hearing the Gerardi case met with the U.N. Special Rapporteur on the Independence of Judges and Attorneys, Param Cumaraswamy. In a follow up report to the Special Rapporteur, the Mack Foundation noted that by the year's end, 80 cases of threats to justice workers had been reported, approximately half of which were associated with the Gerardi trial.

In January the Archbishop's Human Rights Office named as a witness in the Bishop Gerardi murder trial retired Peruvian General Rodolfo Robles Espinoza. In February his Guatemalan employer received an anonymous death threat that clearly was intended to dissuade him from testifying. On April 18, General Robles testified on the impact of the REMHI report on the Guatemalan Army and on the persistence within the military of a vision of national security capable of producing a political-military crime like that typified by the murder of Gerardi. On April 20, Guatemalan Ambassador to Peru and retired Colonel Carlos Armando Moreira Lopez wrote to the General Commandant of the Peruvian Army. He suggested that General Robles had "constituted himself as a public accuser against the Guatemalan Army" and requested "all information about his political and social leanings and his links to international organizations and other such self-proclaimed human rights defenders." Once the incident became public, Foreign Minister Gabriel Orellana called for Moreira Lopez to step down. On June 23, the media reported that he had acted without consultation with the Foreign Ministry.

There were several unsuccessful attempts to lynch local judicial officials (see Section 1.a.).

The judiciary is composed of the Supreme Court, appellate courts, trial courts, and Probable Cause Judges (which function like grand juries). There also are courts of special jurisdiction such as labor courts and family courts; these also are under the jurisdiction of the Supreme Court. The Constitutional Court is independent of the rest of the judiciary. There are several community courts in indigenous rural areas.

The Constitution requires that Congress elect all Supreme Court and appellate court magistrates every 5 years from lists prepared by panels composed of active magistrates, representatives of the bar association, law school deans, and university

rectors. In April a new Constitutional Court was selected in a highly transparent process closely scrutinized by the press and judicial watchdog groups. Some groups criticized individual judges elected to the Constitutional Court; however, most saw the selection process itself as transparent. During the year, 18 judges whose 5-year contracts were not renewed collectively filed a petition before the Constitutional Court. In May the Constitutional Court determined that the Supreme Court had acted improperly in not renewing the judges' contracts. Instead, the Constitutional Court argued, the Supreme Court must convene the Judicial Careers Council to determine whether there was cause to not renew their contracts.

The 1994 Criminal Procedures Code provides for the presumption of innocence, the right to be present at trial, the right to counsel, plea bargaining, and the possibility of release on bail. Trials are public, allowing victims, family members, and human rights groups to observe the process. Verdicts are rendered by three-judge panels. The Criminal Procedures Code introduced oral trials; however, only those attorneys who have graduated since that time have had real training in oral trials. During the year, an innovative pilot project was initiated in the municipalities of Zacapa and Quetzaltenango to present pretrial motions orally, rather than in writing. The code also provides for language interpretation for those who require it; however, in practice this provision rarely is honored due to budgetary and other constraints (see Section 5). During the year, 20 new interpreters were hired, bringing the total to 67, and the Public Defender's Office began hiring attorneys who speak indigenous languages and assigning them to areas where they can use their language skills to defend non-Spanish-speaking defendants. The Prosecutor's Office, which is independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as coplaintiffs. Lengthy investigations and frequent procedural motions by both defense and prosecution often lead to excessively long pretrial detention (see Section 1.d.). Courts showed little willingness to exercise discretion in dismissing frivolous or patently invalid motions. As a consequence, parties continued to use such motions as delaying tactics, frequently holding up trials for several months or even years.

Inefficiency and corruption in the courts, Public Ministry, and police continued to impede the proper functioning of the judicial system and undermine the right to due process. The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. The Discipline Unit investigated 503 cases of wrongdoing during the year. As a result of those investigations, 14 judges were sanctioned, 32 were suspended, and 4 were sanctioned with the recommendation that they be removed. Of those sanctions against judges, 1,159 were findings of impropriety, 66 were warnings, 9 judges were fired, and 1 was suspended. Magistrates received 13 findings of impropriety. The Public Ministry has been hampered in its efforts to investigate crimes and prosecute offenders by inadequate training and equipment, excessive caseloads, and insufficient numbers of investigators. In November the Myrna Mack Foundation reported that 59 percent of the attorneys and law students who participated in a questionnaire regarding corruption in the justice system rated the system very corrupt. The report further details the ease in which payments can be made to justice workers to postpone trials, expedite motions, alter evidence or issue rulings in a predetermined manner. Prosecutors remained susceptible to intimidation and corruption. In addition, the Government's failure to delineate clearly responsibility for investigating crimes to either the PNC or the Public Ministry led to continued infighting and competition between these organizations, as well as the duplication of investigative resources. It was difficult to attract qualified personnel to the courts because of the low salaries offered, but a raise in the salaries of judges attracted greater numbers of higher caliber candidates.

The 1999 Law on Judicial Careers established a system to regulate the income, terms of office, promotion, training, disciplinary measures, and other activities of judges and magistrates. It provided for a mandatory 6-month training course for all newly appointed judges. The panel reviewed numerous cases and issued sanctions ranging from letters of reprimand to firing. On May 5, the Constitutional Court overturned the June 12, 2000, decision by the Supreme Court not to renew the contracts of 18 judges. The Constitutional Court found that the judges' due process rights had been violated when the Supreme Court failed to convene the Judicial Career Council as established by the Law on Judicial Careers. The Council is responsible for selecting judges as well as disciplining them in accordance with the law's criteria for sanctions. In September, after the Disciplinary Unit reviewed complaints filed against forensic doctors, the Supreme Court dismissed four of them. The decisions were based on the doctors' failure to maintain professional standards, includ-

ing the timely submission of autopsy reports. In September the Disciplinary Unit also called for the dismissal of four justices of the Peace.

In June and July, the Disciplinary Unit investigated Judge Delmy Rocio Castaneda Gonzalez, reportedly after an appeals court notified court authorities in late May of a pattern of questionable decisions that forced the appellate court to reverse the majority. The review revealed patterns of flagrant leniency and bias in scores of cases involving drug and other contraband traffickers. The gravity of the case caused the Supreme Court to assign a judge to work with the Prosecutor's Office in the legal process of stripping her of her immunity from prosecution. As the legal case proceeded, the Supreme Court suspended her from her duties, and on July 12, the Constitutional Court upheld that decision.

Also in July, the General Supervisor of Tribunals (SGT) investigated the role of justices Sandino Antulio Avelar, Byron Estuardo Roca Gomez, and Miguel Angel Villatoro Schunimann in their presumed role in the transfer of prisoners responsible for orchestrating the June 17 jail break from the maximum security prison in Escuintla (see Section 1.c.). On July 4, the Judicial Disciplinary Unit suspended Sandino Antulio Avelar and Byron Estuardo Roca Gomez. In July the authorities also suspended Jose Otto Eduardo Sierra Rodas, justice of the peace in the Port San Jose, and Rony Ernesto Silvestre Ramirez, another justice of the peace from Santa Cruz Barillas, Huehuetenango.

In a separate case, the SGT reviewed complaints against Judge Marco Antonio Posadas in conjunction with his investigation of the bank fraud that bankrupted the twin Metropolitan and Promoter Banks belonging to the President's campaign financier, Francisco Alvarado MacDonald. There were credible allegations that Alvarado MacDonald used his financial and political power to influence the handling of the case. In addition to investigating judges and justices, the Disciplinary Unit also oversaw the investigation of court employees who inexplicably lost the court proceedings in another high profile bank fraud case pending against the former president of the National Mortgage Credit Bank, Jose Armando Llort.

In cooperation with foreign donors, the Government continued its efforts to reform the judicial system, and there were some significant improvements throughout the year. One of the most successful reform efforts has been the creation of justice centers, which bring together judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, military officers, and civil society in a team approach to dispute resolution and problem solving. The centers have installed modernized docket and case filing systems in the courts, thereby increasing efficiency and public service while significantly decreasing corruption in the disappearance of case files. Justice centers operated in 10 locations around the country.

In 1999 the Supreme Court extended the administrative model of the justice centers to include the criminal courts in the capital by creating a new Clerk of Court office, which has streamlined the processing of cases, increased transparency, and improved customer service. Under the old system, courthouses resembled marketplaces in which individuals could bribe a court official to "lose" their case file—a system that resulted in near-complete impunity for those with sufficient money. Individuals also could bribe the court to lose the file of a person in pretrial detention, thus assuring that that person would remain in jail indefinitely. The number of missing cases has dropped from approximately 1,000 per year to 1 case in 2001. An analogous system was inaugurated in Guatemala City in the Prosecutor's Office Case Intake Unit. The intake system reduced the average waiting time for filing a complaint from several hours to approximately 10 minutes. In July a new Prosecutor's Office Victim's Unit also was inaugurated in the capital, with doctors and nurses on call 24 hours a day to assist rape and other crime victims and to gather evidence for their cases (see Section 5). Over the course of the year, these units along with the justice centers were extended to every department in the country. Since 1994 the Government has expanded the judiciary's presence throughout the country; at year's end, there were judges in all of the 331 municipalities around the country.

A raise in the salaries of judges attracted greater numbers of high caliber candidates. During the year, the judicial sector initiated an internship program with law students from the national university. The program is designed to provide training to students and much needed practical support to the courts, prosecutors, and public defender's offices.

Despite some progress, much remains to be done to reform the judiciary and establish effective rule of law, as mandated by the Peace Accords. Many of the structural and procedural weaknesses of the judiciary would have been addressed by the proposed constitutional reforms that were defeated in a national referendum in May 1999. The National Commission for the Strengthening of Justice, which was created following the Peace Accords, increasingly is active; in July 2000, it announced its

strategic plan, and subsequently created a number of subcommittees to work on implementation. The Commission met weekly during the year to discuss and define the role of justices of the peace, discuss reforms to the penal code and strategize on how to reduce duplication of work in the criminal labs run by the police, the Public Ministry and the Department of Justice.

The Prosecutor's Office has been hampered in its efforts to investigate crimes and prosecute offenders by inadequate training and equipment, excessive caseloads, and insufficient numbers of investigators. For example, in a sentencing court ordered the release of four homicide suspects—Luis Alberto Sinay Rodas, Miguel Angel Gonzalez Morales, Jose Alfredo Foronda Morales and Joel Gustavo Lopez Huertas—because the prosecutor of their case, Yolanda Gomez Vasquez, failed to submit court documents in a timely fashion in accordance with the Penal Code. Prosecutors remained susceptible to intimidation and corruption. In addition, the Government's failure to delineate clearly responsibility for investigating crimes to either the police or the Prosecutor's Office led to continued infighting and competition between these organizations, as well as the duplication of investigative resources.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of home, correspondence, and private documents; however, allegations persist that the authorities sometimes disregard these provisions. Elements of the security forces, specifically the EMP, reportedly continued to monitor private communications. The prosecutor and his staff in the Bishop Gerardi murder investigation continued to report wiretapping and surveillance, and other human rights organizations reported telephone anomalies that suggested wiretapping (see Section 1.a.). In February the Prosecutor's Office formally charged Colonel Juan Valencia Osorio of spying. Valencia Osorio served as director of security of the EMP, and is alleged to have directed an office that reviewed the contents of correspondence. Valencia is also a suspect in the murder case of Myrna Mack (see Section 1.a.).

A former military specialist, Oscar Chex Lope, testified that for at least 6 years, military intelligence spied on Bishop Gerardi. He claimed that anyone considered part of the opposition to the Government or to the army—including politicians, unionists, or religious workers—was subject to wiretaps and was spied on. Under oath he described the practice of keeping active files on religious, indigenous, union, and political leaders.

In May 2000, Edgar Gutierrez, head of the President's Secretariat for Strategic Analysis, announced the existence of a computer database containing names, personal information, and cryptic codes about more than 650,000 persons. The database appeared to have been compiled by military intelligence several years earlier, and a copy remained on the SAE computer system. The SAE provided a copy to the Human Rights Ombudsman, who offered access to the database as a public service for those who wished to learn if their names appeared on the list.

The military continued to honor the 1994 presidential order to suspend all conscription, including forced recruitment, as the armed forces found it relatively easy to recruit young male volunteers from impoverished areas using pay and education incentives.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of expression, and the Government generally respected this right in practice; however, there were numerous credible reports that members of the press were targets of anonymous threats and intimidation, and there were credible allegations of government-connected censorship. Self-censorship was common and took the form of individual decisions not to speak out or testify.

In addition to regular and open criticism of government policies, the print media publicized communiques from human rights organizations, unions, and groups opposed to the Government or its policies. The press criticized the military and other powerful sectors. The press also regularly published stories on reputed drug traffickers, official corruption, and clandestine intelligence networks. There are seven major dailies published in the capital and approximately six local papers published outside the city.

The Government prepared public information programs, which the radio and television stations were required to broadcast. The Government owns the rights to two national (VHF) television channels but neither channel now broadcasts. During the year, the Government announced plans to auction the broadcast licenses for the channels, but no auction had occurred by year's end.

Despite its Peace Accords pledge to enact reforms to the Radio Communications Law to make radio frequencies available for indigenous communities, the Govern-

ment instead passed a law that created a public auction system for radio frequencies. In August 2000, when eight local radio operators were unable to purchase the frequencies that they already were using due to the extremely high cost, the Superintendent of Telecommunications fined them \$10,000 (about 78,000 quetzals) for broadcasting without a license. MINUGUA concluded that the high cost of the public auction system was an effective barrier to rural indigenous access to radio frequencies. At year's end, the Government and the Guatemalan Council on Community Mediums of Communication, a NGO, were negotiating proposed reforms to the law.

All four of the country's national television stations are owned by a Mexican citizen, Angel Gonzalez, who plays a significant role in politics and provides free broadcast time to FRG politicians whom he supports. These channels were criticized strongly as being monopolistic, progovernment, and interested in broadcasting only uncontroversial news. In exchange for giving extensive free time to the FRG and denying access to then-ruling National Advancement Party, Gonzalez reportedly insisted that his brother-in-law, Luis Rabbe, be the FRG's candidate for mayor of Guatemala City. Despite the FRG's electoral sweep of most major offices, Rabbe was defeated. The President then named Rabbe as his Minister of Communications. Both Rabbe and the Communications Ministry were the subject of numerous corruption charges.

In April 2000, the Organization for American States (OAS) Special Rapporteur on the Freedom of Expression Santiago Canton visited the country. He recommended a "serious investigation of the possible existence of a real monopoly on television stations open to public access," in reference to the control by a single individual of all of the private stations in the country. He also recommended that the Government implement clear regulations to prevent conflicts of interest between government officials and the media and suspend the auctions on radio frequencies until the Peace Accord regarding the rights of indigenous people is implemented.

In January Claudia Mendez Villasenor, print journalist for the daily *El Periodico*, claimed to be the target of pressure from two former consultants to Luis Rabbe. The daily ran a series on corruption and influence peddling by Rabbe. On February 20, an estimated 60 persons demonstrated in front of the offices of the newspaper and blocked the door to the offices. In its analysis of the event, MINUGUA reported that the crowd consisted of employees of the Ministry of Communications who went to the scene in Ministry vehicles. On March 27, Sylvia Gereda, co-Director of *El Periodico* was followed and threatened after publishing accounts of corruption in the operations of the Banco Credito Hipotecario Nacional, and particularly on the part of the former bank president. On March 30, two masked gunmen followed Martin Juarez, another *El Periodico* journalist, for 2 hours and then threatened him. The gunmen reportedly stated that *El Periodico* should cease to publish articles critical of the Government. In July Jose Ruben Escalante, director of the radio program *Agenda 2000*, reportedly received numerous threats of violence by telephone after addressing the controversial theme of tax increases.

On June 13, the President removed Luis Rabbe as Minister of Communications, following many allegations of mismanagement and fraud. On June 3, print journalists filed a complaint before the IACHR against the Gonzalez television monopoly and alleged government efforts to restrict press freedom. In an interview published on June 4, Salvador Bonini, president of the Guatemalan Journalists Association, characterized the situation of the media as "not so much a conflict as a direct attack by television on the independent written press."

On September 5, the President promised delegates from the Inter-American Press Society (IAPS) that the Government would auction off the frequencies of two national television channels, thereby ending the monopoly control of Angel Gonzalez. Both IAPS delegates and deputies from opposition parties in the Congress voiced concern that any auction be transparent. One journalist noted that in 2000 a publisher of a newspaper that was often critical of the Government made an offer to buy the educational television station; however, the Government refused to sell the license to him. The channels belong to the Defense and Education Ministries; however, neither ministry has the equipment or personnel needed to use the channels. Broadcasting laws must be changed before the channels can be sold because the law reserves those channels for government use.

From March to August the Government negotiated a settlement with the IAPS and with survivors of Irma Flaquer who, before she was kidnaped in 1980, published a column entitled "What Others Conceal" that was critical of the atrocities committed during the conflict. A settlement included reparations to her survivors of \$232,260 (1.8 million quetzals), a memorial mass for Flaquer in the national cathedral, and the naming of a section of a street in downtown Guatemala City after

Flaquer. As stipulated in the settlement, in December the Public Ministry designated a special prosecutor to reopen and investigate the case.

Death threats against journalists and other citizens critical of corruption were reported widely throughout the country. On June 8, the Prosecutor's Office created a special prosecutor for the protection of journalists and unionists.

On September 6, several armed men shot and killed Jorge Maynor Alegria Almendaris, host of Direct Line, a call-in program on Radio Amatique, outside his home in Puerto Barrios, Izabal. Reports suggested that the murder was linked to Alegria's having accused officials and port authorities at Puerto Santo Tomas of embezzlement, bribery, and other abuses. Police units from the capital and Puerto Barrios investigated the murder and quickly detained two suspects, Eddy Ramon Garcia Silva and Humberto Estuardo Contreras Salazar. However, the men were released in October after a witness failed to recognize them in a line-up, and it was determined that the weapon the detainees were carrying did not match the murder weapon. The Human Rights Ombudsman criticized the arrest as an attempt to find a scapegoat and cover up the real authors of the crime, and implicated the mayor of Puerto Barrios, of whom Alegria was especially critical. The representative of the PDH in Izabal, Waldemar Barrera, characterized Martinez's death as an extrajudicial killing, cited anomalies in the investigation carried out by the PNC, and reported that both he and the key witness had received death threats. At least two programs at Radio Amatique were taken off the air after the event.

On February 13, the trial of Gustavo Adolfo Garcia Rosales and Luis Fernando Ramirez Perez, charged with the April 2000 killing of photojournalist Roberto Martinez and two other persons began. Garcia received an 18-year prison sentence for homicide and carrying a weapon without permit, but Ramirez was absolved. Martinez's family immediately filed an appeal, but the sentence was upheld in November.

On September 5, the Archbishop's Human Rights Office filed a motion against the Interior Minister for the August appointment of Carlos Rafael Soto as Director of the National Printing Office on the grounds that the law prevents the appointment to public office of someone against whom charges are pending. Since 1999 Soto has been under investigation by prosecutors for the alleged repeated sexual abuse of two girls, ages 9 and 11. Separately, Congressional deputies Anabella de Leon and Magda Arceo, and the previous director of the printing office, Sylvia Mendez, filed their own motion against Soto and Vice President Francisco Reyes Lopez on charges of abuse of authority. The accusations are in connection with alleged involvement in a government-directed smear campaign against Jorge Briz, the former head of the Guatemalan Chamber of Commerce. As a result of the ensuing investigation, the women claimed to have received numerous death threats and Arceo and Mendez went into exile. In December the IACHR ordered the Government to provide them with protection.

In September representatives of the Guatemalan press delivered a report to the IACHR detailing various cases of threats and harassment against journalists. The group asked the IACHR to investigate these crimes, including the deaths of Roberto Martinez and Mynor Alegria, and make recommendations to the Government to protect freedom of speech.

In June the Center for the Defense of Freedom of Expression (CEDEX), a local press freedom NGO, conducted a seminar at which it encouraged journalists from all over the country to report attacks on the press in their areas.

On November 30, Congress passed a bill that would require every working journalist to hold a journalism degree, belong to a professional association, and receive a government license. Despite overwhelming popular criticism, the Executive signed the bill into law on December 21; however, an immediate challenge was filed asking the Supreme Court to overturn it as conflicting with the Constitution's provision on freedom of expression.

A Government-sponsored Freedom of Information Law which would establish an ombudsman's office to defend the right to freedom of information, including the ability to petition the Government for personal records and other information, languished in the FRG-dominated Congress at year's end.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respects this right in practice. Peaceful demonstrations were common. There were a variety of protests around the country to demonstrate opposition to a variety of situations: Corruption on the part of local officials; mismanaged banks and social funds; budget cuts in education; and dislocation of squatters and street vendors. Demonstrations were undertaken by: Coffee plantation workers calling for government assistance, fishermen denied beach access, indigenous communities dissatisfied with police and juridical

services, high school students opposed to the national literacy campaign because they were being forced unwillingly to conduct after hours reading classes for adults with very little preparation and materials, and families of persons who disappeared during the conflict.

On April 24, the President of Congress and FRG Party head retired General Efraim Rios Montt was called to appear before a judge regarding his involvement in the alteration of a law after it was voted on in the Congress. The Citizens Movement for Justice and Democracy called for a demonstration at the courthouse. While in front of the building, about 50 antigovernment protesters were surrounded by about 1,500 FRG supporters who were bussed to the site. The FRG supporters allegedly surrounded and beat the activists, destroyed their banners, and cut the cables of their sound system. Despite the large crowds, there was virtually no police presence or crowd control. The police did not respond when called by telephone.

Protests against increases to the value-added tax began in June with Friday evening rallies in the capital by primarily upper-middle class protesters wearing black. By late July and early August, thousands of schools closed and large protests were held across the country in conjunction with a nationwide business shutdown called by the private sector on August 1 (see Section 6.a.). The protests were mostly peaceful; however, police arrested some 200 protesters for minor offenses such as property damage. Vehicles stopped traffic on the highway to Escuintla. Protesters from the national university held hunger strikes in front of the Constitutional Court, and protesters in various cities burned tires in the streets. There were credible allegations of police brutality during the afternoon of the August 1 demonstrations against tax increases, and legal proceedings were initiated against 15 police officers (see Section 1.c.).

In Totonicapan, protesters became violent, breaking windows and setting fire to the residences of local FRG members of Congress. In response, the President and his cabinet declared a state of exception in Totonicapan in the early morning hours on August 2. The army was sent to Totonicapan, and certain constitutional freedoms were suspended in principle to give the army the capacity to impose a curfew, confiscate arms, centrally control information, prohibit or control meetings, disband any organization, detain any suspect, and otherwise repel any action which ran contrary to their orders. However, the lack of a legal quorum in Congress raised the question whether the ruling FRG party would be able to approve the President's decree. The legal point soon became moot as violence subsided and the army was withdrawn from the city on August 5.

The Constitution provides for freedom of association, and it was generally respected in practice; however, there were credible allegations that the Government interfered with political associations. The opposition credibly claimed that the Government printing office distributed thousands of leaflets slandering the then head of the Chamber of Commerce in retaliation for that organization's role in fomenting public protests against tax increases.

On February 21, several days before retired General Otto Perez Molina was to announce the formation of a new political party, masked gunmen shot and wounded the General's daughter, Lissette Perez Leal de Solorzano (see Section 1 a.).

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, the Government has not implemented the 1995 Agreement on the Identity and Rights of Indigenous People, which provides for the respect of spiritual rights of indigenous people. There is no state religion; however, the Constitution recognizes explicitly the separate legal personality of the Catholic Church. The Government does not subsidize religious groups directly. Members of a religion need not register simply in order to worship together. However, the Government requires religious congregations (other than the Catholic Church), as well as other nonreligious associations and NGO's, to register as legal entities to be able to transact business.

While there is no government policy of discrimination, a lack of resources and political will to enforce existing laws and to implement the Peace Accords limits the free expression of indigenous religious practice. Indigenous leaders note that Maya culture does not receive the official recognition that it is due. The Government has not provided mechanisms for free access to ceremonial sites considered sacred within indigenous culture, nor has the Government provided for the preservation or protection of such ceremonial sites as archaeological preserves. The Government's use of sacred sites as revenue-generating tourist destinations is considered by some indigenous groups to be an affront to their spiritual rights.

On June 8, a court convicted three military officers of the 1998 murder of Bishop Juan Gerardi, the Coordinator of the Archbishop's Office on Human Rights (see Section 1.a.).

Prosecutors appear to have dropped the case of Mayan priest Raul Coc Choc who was shot and killed at his home in the department of Chimaltenango. Coc Choc was a leader of the National Association of Mayan Priests; members of the board reported that he had received numerous death threats.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, however during the year the Government temporarily suspended in principle the right of freedom of movement within the country. In reaction to a jail break in June in which 78 criminals escaped from the maximum-security prison in Escuintla, the Government established a state of alarm (see Section 1.c.). Four rights normally protected by the Constitution were suspended from June 18 to August 18 as extensive manhunts were conducted in the south of the country: freedom of movement, freedom from arbitrary arrest, freedom from search and seizure, and freedom from interrogation without the presence of a legal representative (see Section 1.d.). In August the President briefly declared a state of exception in Totonicapan (see Section 2.d.). The Government generally respected these rights during the rest of the year.

The former Director General of Immigration acknowledged publicly that persons attempting to cross illegally into the country are subject to extortion and mistreatment by government officials. Many observers believe that this mistreatment is underreported because illegal immigrants almost never have the capacity to lodge formal complaints, either with the authorities or against them, and there is little legal assistance available to such immigrants. In December an Indian national committed suicide as a result of the conditions at the center for detained illegal migrants and out of frustration at the prospect of never reaching his intended destination, the United States.

The Government grants refugee status and asylum in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees from other countries. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to countries where they feared persecution.

Voluntary repatriation of Guatemalan refugees who had migrated to Mexico during the internal conflict concluded in 1999, bringing the total to over 40,000 since 1993. Guatemalans who still remain in Mexico do so by choice. Forty former refugee families returned voluntarily to Mexico in August 2000, claiming that the Government was not providing for their fundamental needs. The Government of Mexico reportedly accepted their return. Over 1,500 other individuals indicated their intention to return to Mexico if the Government would not resolve their land issues and improve living conditions.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for those 18 years of age and older. Ballots are secret. Members of the armed forces and police may not vote. Since the return to democracy and civilian rule in 1985, there have been nine free elections. International observers concluded that both the November 1999 general elections and the December 1999 runoff presidential election were generally free and fair. Lack of transport, onerous voter registration requirements, and elections scheduled during the harvest season prevent many poor, indigenous, and rural persons from voting. A significant percentage of the rural poor population lacks the documentation needed to register to vote. Several campaigns exist to document citizens, particularly among the illiterate.

Voters elect the 113-member, unicameral Congress every 4 years using a system of proportional representation based on population, with deputies elected both from districts and from a nationwide list. Voter participation in the 1999 elections was at a 13-year high. Four parties and both coalitions won seats in the legislature, led by the FRG with a 63-seat majority, followed by the PAN with 21 seats, the Bancada Unionista with 16 seats, and the New Nation Alliance coalition, which includes the Guatemalan National Revolutionary Unity (URNG) party, with 9 seats. Other small parties hold a total of 4 seats. Congress can and does act independently of the executive, but fragmentation along party lines and a weak support and staff structure result in a legislature that is relatively ineffective. However, Congress increased its relative power and independence under the leadership of FRG President of Congress and retired General Efraim Rios Montt, a former de facto President.

The former Guatemalan National Revolutionary Unity guerrillas met all legal requirements for qualification as a political party and competed in the 1999 general

elections and won nine seats in Congress as part of a coalition with a much smaller party.

In December 1999, voters elected FRG presidential candidate Alfonso Portillo in a runoff election that international observers characterized as free and fair. He took office in January 2000.

The Government's efforts to implement the Peace Accords during the year were mixed. Payment of compensation to family members of the victims of the Dos Erres massacre, raising government revenues as outlined in the fiscal pact, and increasing the number of police were some of the major advances in implementation (see Sections 1.a. and 1.c.). However, significant increases to the defense budget, the naming of retired and active duty military officers to senior positions in the Ministry of Government, and the failure to dismantle the EMP were criticized broadly by civil society and the international community as troubling failures.

In 1999 in a national referendum, voters rejected the entire package of 50 constitutional reforms approved by Congress in 1998, dealing a significant blow to the peace process. Only 20 percent of the electorate voted. The defeated amendments included provisions to recognize, respect, and protect indigenous languages and traditional customs, professionalize the judicial service, give civilian courts jurisdiction over military personnel, and define the army as an apolitical organization. While ordinary laws could be enacted to accomplish many of the reforms, the constitutional reforms nonetheless held great symbolic value for the peace process.

There are no legal restrictions, and few practical ones, on the participation of women in the political process; however, the percentage of women in government and politics does not correspond to their percentage of the population. The major parties nominated and elected fewer female candidates for Congress in the 1999 elections; however, women's participation as voters was the highest ever, despite social traditions that inhibit voting by women. Women held some prominent political positions. Voters elected 8 women to Congress in 1999, and that number was increased to 12 as substitutes took the seats of members of Congress recruited to serve in the Executive Branch. One woman, Zury Rios de Lopez, is the Second Vice President of Congress. Women hold two seats on the Supreme Court and one on the Constitutional Court. There was one female minister in the Cabinet—the Minister for Culture and Sports. In March MINUGUA reported that only 69 percent of women of voting age were registered to vote; of this group only 33 percent voted. Less than 1 percent of the 330 mayors in the country were women, and less than 5 percent of the municipal officials.

The Constitution provides for equal rights for indigenous people. Some attained high positions as judges and government officials, including 14 members of the Congress. Indigenous people still are underrepresented significantly in politics due to limited educational opportunity and pervasive discrimination (see Section 5). There are two indigenous members in the Cabinet. While indigenous people represent 60 percent of the population, they represent only 1 of 12 ministers and 1 of 12 presidential secretaries. Of 113 members of Congress, 14 are indigenous. There were two indigenous ambassadors. In September a number of prominent Mayan women, including Rigoberta Menchu and Otilia Lux Coti, created the Political Association of Mayan Women (MOLOJ) to promote the political participation of Mayan women, especially in the highlands.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government permits local human rights groups to operate without restriction, and numerous domestic and international groups investigate and report freely on human rights issues; however, during the year, most NGO's credibly reported receiving threats or being intimidated by unidentified persons. Senior government officials met with numerous foreign government officials and international human rights monitors. While many international human rights organizations and their workers do not enjoy formal legal status, they continue to operate openly.

There continued to be a high number of threats against human rights workers, as well as journalists and judicial personnel (see Sections 1.a., 1.c., 1.e., and 2.a.). Most of these acts of intimidation involved anonymous telephonic threats, surveillance, and unknown individuals and cars following human rights workers or watching their workplaces or residences. The Archbishop's Human Rights Office personnel reported frequent and persistent death threats, surveillance, and other acts of intimidation, as did the prosecutors, two judges, and other judicial personnel working on the Bishop Gerardi murder case (see Section 1.a.). Legal staff associated with the genocide case against former de facto president and retired General Efraim Rios Montt similarly were threatened or attacked.

On July 22, Anselmo Roldan Aguilar, president of the Association for Justice and Reconciliation (AJR), was the victim of a knife attack. The aggressor previously had threatened Roldan as well as other members of the AJR, which represents communities where massacres occurred during the presidencies of Lucas Garcia and Rios Montt. Members of the AJR are party to the genocide cases pending against both men (see Section 1.a.).

On March 6, two attorneys involved in the Movement for Justice, Alejandro Sanchez and Juan Pablo Arce, were threatened over the telephone and told that they had 48 hours to leave the country. The Center for Studies, Information and Databases for Social Action was subject to five robberies in 15 months. On March 12, computers were stolen from the office. The Prosecutor's Office and police investigations were virtually nonexistent, despite the pattern of assaults.

On April 2, the offices of Casa Alianza in Guatemala City were broken into and ransacked. Several hundred files containing personal information about street children with whom Casa Alianza works were strewn all over the floor. After cleaning up, Casa Alianza determined that 12 active files were missing.

In April there were credible reports of a break-in and theft of a computer from the home of a human rights activist involved with the case of the disappearance of guerrilla leader Efraim Bamaca Velasquez, as well as renewed death threats against one of the case's key witnesses and his family.

On May 4, two assailants abducted and detained at gunpoint the head of FAMDEGUA and her driver before stealing their vehicle. The timing of the event, combined with the fact that the assailants conducted prior surveillance of FAMDEGUA's offices and knew the victims whom they abducted, strongly suggests a planned attack.

On June 11, armed men abducted an international member of a visiting Amnesty International delegation as she tried to enter her hotel room in the capital. The assailants threatened her, tied her up, and left her unconscious for several hours at the bottom of a stairwell in the hotel. Within hours of the event, the Interior Minister Byron Barrientos, publicly dismissed the event as a fabrication. In its 12th report, the MINUGUA concluded that it was impossible to dismiss the possibility of involvement by illegal or clandestine operatives who count on the support or acquiescence of authorities of the state.

On October 2, the laptop of Matilde Gonzalez Izas, researcher for the Association for the Advancement of Social Sciences (AVANSCO), was stolen from her home, while nothing else was touched. In addition, Gonzalez received telephone threats and was surveilled and followed on numerous occasions. Gonzalez was working on a report of post-conflict power structures linked to the military and former members of the Civil Defense Patrols in Huehuetenango and Quiche.

In September 2000, four armed men had entered the offices of FAMDEGUA and demanded keys to vehicles and money. They stole a FAMDEGUA vehicle, four computers, two laptops, a television, and other electronic equipment. The computers contained sensitive information about human rights complaints, statistics, and information regarding specific human rights cases, such as the Dos Erres massacre (see Section 1.a.).

In October 2000, an armed group assaulted the employees and robbed the offices of a group called Women Let's Advance. The assailants raped one employee, and stole several computers and other office equipment as well as the money and jewelry of the employees. In December 2000, 2 days after the press reported that the Archbishop's Human Rights Office would be bringing a genocide suit against General Efraim Rios Montt, the Archbishop's Human Rights Office's legal coordinator Mynor Melgar and his family were threatened, tied up, and robbed at gunpoint in their home. While the event contained elements of common crime, Melgar was threatened, and the perpetrators' actions showed premeditation in directing their actions to him specifically. Despite his having identified one of his assailants, there was no progress in the case against Melgar's attackers. While each of these incidents, if taken separately, could be explained as a common crime, the frequency of such incidents was a cause for significant concern.

In April the IACHR published its fifth report on the human rights situation in the country. The report noted significant advances such as the end of the pattern and practice of human rights violations perpetrated as government policy during the civil war, increased political participation, the incorporation of previously excluded sectors of civil society in the development and implementation of public policy, the initiation of the process of demilitarization, and the taking of steps to establish the truth about the fundamental violations that were a cause and a consequence of the conflict. The Commission defined the paramount challenge facing the country as the creation of a judicial system that offers effective protection for the rights of the pop-

ulation. In addition, the Commission noted that “a state of impunity continues for human rights violations.”

MINUGUA maintained a human rights verification staff of approximately 70 persons, with 13 regional or subregional offices to monitor implementation of the human rights provisions of the Peace Accords and strengthen democratic institutions. MINUGUA stated that the Government generally cooperated with its investigations but cited occasional isolated incidents in which government officials or institutions had obstructed its efforts.

On July 27, the United Nations Commission on Human Rights (UNCHR) expressed its concern that the absence of a policy against impunity prevented the effective identification, trial, and punishment of those responsible for numerous cases of human rights violations. U.N. Special Rapporteur for Justice, Param Cumaraswamy, visited for several days in May. In the course of his visit, Cumaraswamy noted a deterioration in the security of justice sector workers (see Sections 1.c. and 1.e.).

Every 5 years, Congress elects the Human Rights Ombudsman from three candidates chosen by the Congressional Committee on Human Rights; the next election is scheduled to occur in August 2002. The Ombudsman reports to Congress and monitors the rights provided for by the Constitution. The PDH's rulings do not have the force of law. Relations between the Human Rights Ombudsman's office and MINUGUA were strained and distant. Upon the expiration of the MINUGUA's mandate, which is scheduled for 2003, the Human Rights Ombudsman's Office is to take over the human rights verification function, but there was little preparation for the transfer of that responsibility by either party. MINUGUA sources suggested that the Human Rights Ombudsman's Office rejected attempts to engage it in meaningful preparations. In November press reports accused Dr. Julio Arango Escobar, the Ombudsman, of using official funds to start a political party. Also in November, the Commission for the Defense of Human Rights in Central America criticized Arango for nepotism and for not actively promoting judicial action in cases of human rights abuses.

COPREDEH, the President's own commission for human rights, came under attack from hard-liners within the Government opposed to the initiatives taken by the organization to advance a responsive and forward-looking human rights policy. In May, while President Portillo was out of the country, hard-liners succeeded in bringing down the organization's President, Victor Hugo Godoy. Before being fired by Vice President Francisco Reyes, Godoy played an instrumental role in revitalizing the Government's human rights policy, primarily by acknowledging and taking legal responsibility on behalf of the Government for cases involving grave human rights violations before organizations like the IACHR. The policy was designed to restore public confidence in the credibility of the Government, which initiated dialog on amicable settlements in some 79 of the 150 cases before the IACHR. Amicable settlements were negotiated in several important cases, including those of Nicholas Blake, Irma Flaquer, street child Marcos Fidel Quisquinay, and the Dos Erres massacre (see Section 1.a.).

In June the President named the former Director of the organization, Ricardo Alvarado, to replace Godoy with the pledge of preserving continuity and follow through on human rights policy. The pledge was short-lived; in July the President asked Alvarado to step down. On July 22, COPREDEH broadcast a short video on the Dos Erres massacre as part of the amicable settlement reached in the case. FRG hard-liners called for the complete dissolution of COPREDEH. The President refused to sign a decree that called for COPREDEH to be dissolved; however, he did name Alfonso Fuentes Soria, who was acceptable to conservatives within the Government, as the new head of the organization.

On June 27, the President signed a presidential decree creating a Peace and Harmony Commission. The Commission was originally envisioned as an independent foundation by the Historical Clarification Commission to oversee the implementation of the Peace Accords. The Human Rights Ombudsman and 27 organizations comprising the consultative representatives of civil society announced that they would boycott the organization. They criticized the unilateral manner in which the Commission was created and its failure to embody the independence of a foundation or the thoroughgoing implementation of the Accords, including, for example, a national exhumation policy.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that all persons are free and equal in dignity and rights, and that the State must protect the life, liberty, justice, security, peace, and development of all citizens. However, in practice the Government frequently is unable to

enforce these provisions, due to inadequate resources, corruption, and a dysfunctional judicial system (see Sections 1.c. and 1.e.).

Women.—Violence against women, including domestic violence, remained common among all social classes. The 1996 Law on Domestic Violence provides that the Prosecutor's Office, the national police, family courts, legal clinics, and the Human Rights Ombudsman's Office can receive complaints of domestic violence. Domestic violence is defined as "whatever action or omission by direct or indirect manner causes damage, or physical, sexual, psychological, or patrimonial suffering" to a person within the family group. The law provides for the issuance of restraining orders against alleged aggressors and obligates the PNC to intervene in situations of domestic violence. Statistics vary significantly. The Prosecutor's Office reported receiving 8,060 complaints of domestic violence against women and children during the year, 44 percent more than those received in 2000. Only 56 cases were brought to trial; in 38 cases the attackers were convicted. The PDH reported that between November 2000 and October, they received 5,664 reports of domestic violence. They also estimated that for every 1 reported case, there are 10 more that are not reported.

Complaints of spousal abuse continued to rise due, at least in part, to increased nationwide educational programs, which have encouraged women to seek assistance. In November 2000, the Government announced the formation of the National Coordinator for the Prevention of Domestic Violence and Violence Against Women (CONAPREVI), which is chaired by the Secretary for Women's Affairs, and includes public sector representatives from the Prosecutor's Office, the judiciary, the National Statistics Institute, and three representatives from the private sector Network Against Violence Against Women. On January 5, CONAPREVI released its National Plan for the Prevention of Domestic Violence. In May CONAPREVI announced that it had developed a uniform and simplified documentary process for victims to file complaints of domestic violence. The new form contained 43 questions that enable authorities to establish the nature of the offense and to accumulate meaningful statistics.

The office of the Ombudsman for Indigenous Women, led by Juana Catinac Xom de Coyoy, provides social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. It formed a coordinating committee and other advisory boards and representative assemblies from each of 24 linguistic groups. It opened its first branch offices and spent much of its first year resolving personnel, equipment, and organizational issues.

Sexual offenses and prostitution continued to increase. The Prosecutor's Office reported receiving 1,550 cases of rape and sexual assault during the year. A total of 37 cases went to trial, and convictions were attained in 25 cases. The penal code does not include a description of sexual assault as a crime.

Victims rarely reported criminal sexual violence, although the number of complaints of such offenses continues to increase significantly. Many observers believed that increases did not reflect an increase in the number of rapes committed, but rather an increased willingness on the part of victims to come forward, greater public confidence in the police, and improved record keeping of crime statistics. Despite these advances, relatively few rape cases went to court, in large part because police have little training or investigative capacity for such crimes and because many rape victims were reluctant to report and prosecute such crimes. In July 2000, the Public Ministry created a Special Victim's unit, staffed 24 hours a day with doctors and nurses with rape test kits to assist rape victims in gathering evidence to use against their attackers. The law allows a rapist to be exonerated when the victim is at least 12 years old and agrees to marry him, but the Public Ministry must approve the marriage when the victim is below the age of 18.

The law does not prohibit sexual harassment, which is common in the workplace. A Human Rights Watch report alleged that female domestic and maquila workers face discrimination and sexual harassment (see Section 6.e.).

Prostitution is not illegal; there are certain health code requirements for persons engaging in prostitution. The number of prostitutes increased during the year, although no exact figures were available. Pimping and inducing a person into prostitution are crimes that can result in either fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women, primarily for the purpose of prostitution, is illegal and a growing problem (see Section 6.f.).

The Constitution asserts the principle of equality between the sexes. Nonetheless, in practice women face job discrimination and are less likely to win management positions. The PDH estimates that women generally receive significantly lower pay than men; in many cases one quarter of the salary for the same work performed. Some women were subjected to preemployment pregnancy tests. Women are employed primarily in low-wage jobs in the textile industry, agriculture, retail busi-

nesses, and the public sector. More working women than men are employed in the informal sector of the economy, where pay and benefits generally are lower. Women may own, manage, and inherit property on an equal basis with men.

In March MINUGUA reported that more than half of indigenous women cannot read. More than 50 percent of urban girls and 81 percent of rural girls drop out of school. According to the PDH, only 17 out of every 100 girls complete primary school. In May MINUGUA reported that the percentage of female heads of household increased from below 17 to more than 20 percent. In urban areas, nearly one in four households is headed by a woman.

In May 2000, the Administration announced the creation of a Secretariat for Women's Affairs. The Secretariat operates under the direction of the President, advising him on the coordination of policy affecting women and their development. In January Dr. Lily Caravantes, Presidential Secretary for Women, presented to the President an extremely ambitious National Policy for the Promotion and Development of Guatemalan Women and Plan for Equal Opportunity 2001–2006. Based on the recognition that 70 percent of women live in poverty, the strategic plan identified and prioritized areas of critical importance for women, ranging from access to health care and education, to protection from domestic violence. The National Women's Forum, a group formed in 1997 to promote women's issues, actively participated in the elaboration of the plan and contributed proposals in each of the prioritized areas. The Forum also continued to sponsor programs to encourage political participation and to monitor, evaluate and advise on the implementation of those elements of the Peace Accords that focus on women's issues.

In June the first 11 female cadets graduated from the country's military academy. Also in December a second class graduated with 5 female officers. In December, the last police academy graduation class of the year included 93 women out of a total of 706 new officers.

Children.—The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors. However, despite these provisions, the Government does not devote sufficient resources to ensure adequate educational and health services for children. During the year, the Government budgeted approximately \$350 million (2.8 billion quetzals) for education and \$213 million (1.7 billion quetzals) for health care; however, the percentage of the country's GDP that was spent on education decreased from 2.3 percent in 2000 to 1.6 percent.

A December 2000 MINUGUA report found that 51 percent of the population is under 18 years old; of this group, 83 percent live in poverty. According to the National Council on Nutrition and Food Security, 13 percent of the population suffered from low birth weight, and 40 percent of the population lacks access to potable drinking water. There are approximately 200,000 orphans throughout the country, approximately 10,000 children in gangs, and 6,500 children living on the streets. More than 450 children have disappeared since 1996.

The Constitution provides for compulsory education for all children up to the 6th grade. However, less than half the population actually receives a primary education, and only 3 of 10 students who begin primary school complete it. One-fourth of all children do not attend school. These are concentrated in rural areas, and a disproportionate number are indigenous girls. Only one of eight girls who begin school graduates from the 6th grade. According to the December 2000 MINUGUA report, the average Guatemalan child receives 2.3 years of education; however, when only indigenous children are considered, the average drops to 1.3 years of education. Children in rural and indigenous areas are less likely to complete primary school.

According to the Ministry of Education, approximately 2 million children between the ages of 5 and 12 were enrolled in schools during the year. The Ministry also reported that 526 communities had access to educational services for the first time, benefiting approximately 33,000 children, for which the Ministry hired 815 educational promoters. PRONADE, a privately run program under the auspices of the Ministry of Education, continued to give incentive scholarships to girls, although due to budget cuts, only 10,000 were granted, a significantly smaller number than in 2000.

Public health analyses showed that 60 percent of the cases of infant mortality and 76 percent of the cases of maternal mortality were preventable through attention to basic health and environmental measures that have been neglected. The Peace Accords, recognizing the systematic violation of children's right to health, called for a 50 percent reduction in infant and maternal mortality and a 50 percent increase in public health spending. Health coverage has increased since the signing of the Accords, but government commitments have begun to taper off. Approximately 1,340,000 women and children did not have access to basic health services during the year.

In June the Archbishop's Human Rights Office released an annual report, which noted that malnutrition affected some 46 percent of the country's children; infant mortality impacts 45 children per 1,000. In June and July, several children reportedly died of malnutrition and illnesses associated with contaminated drinking water in the poor rural area of Fraijanes. In early August, there was an outbreak of more than 600 cases of tuberculosis.

Most estimates indicated that reports of child abuse continue to increase, although there are few statistics available to measure the problem. The Procuracy General reported 1,126 cases of child abuse as of December 2000, compared to 1,478 cases in 1999. A total of 70 cases reported during 2000 concerned physical abuse; the remainder involved sexual or psychological abuse. Of a total of 4,250 cases of domestic violence, the PDH investigated 126 complaints of child abuse during 2000. The largest percentage of these complaints were for physical, emotional, and sexual abuse, as well as neglect. A July press report suggested that of the 7,760 cases of child sexual abuse considered by the Prosecutor's Office, only 50 resulted in convictions. A Permanent Commission for Children and Youth investigates cases of mistreatment of children. The Social Secretariat for the Welfare of Children has oversight for the children's welfare program, treatment and training for children, and special education assistance for children. The Secretariat provides shelter and assistance to children who are victims of abuse; however, due to lack of resources, these children sometimes are placed with other youths who have committed crimes (see Section 1.c.).

In January the PDH investigated complaints of physical and sexual abuse in numerous schools, and officially censured both the directors of the schools implicated as well as authorities within the Education Ministry charged with oversight of public schools.

Former military commissioner Victor Vicente Poroj raped 11-year-old Ana Maria Pichol Guarcax on four occasions in December 1999. A forensic doctor in Chimaltenango confirmed the crime. The father, according to indigenous practice, demanded an explanation from Poroj. Poroj intimidated and threatened the family for being part of a citizens group, and filed a complaint of slander. The prosecutor assigned to the case, Villar Anleu, gave little importance to the case and appeared to resent the father for bringing the case. The father requested that the prosecutor be excused for bias. The father was imprisoned for 2 days for the slander charge against him. On February 19, several days before the trial was scheduled to open, Melchor Pastor Hernandez and Juvencio Ixmay kidnaped Ana Maria's older sister Marta Elena. Poroj continued to threaten the father, but also offered him a bribe to drop the case.

On October 23, 2000, a 15-year-old girl, accompanied by her mother, filed rape charges with the Victim's Assistance Unit of the Prosecutor's Office (OAV) in Zacapa against Freddy Barrientos Alfaro, an assistant prosecutor for minors. Enrique Sosa Solis, the District Prosecutor, interviewed the plaintiffs who then decided to drop all charges against Barrientos. However, according to the Penal Code, rape of a minor must be investigated by the Prosecutor's Office, irrespective of whether charges are pending. Because the accused worked for Sosa, the latter recused himself from the case. On December 10, 2000, prosecutors from the neighboring department of Chiquimula opened a criminal investigation. On December 12, 2000, the prosecutor requested that Judge Cecilia Isabel Paiz issue an arrest warrant for Barrientos on rape charges. The Judge requested to be excused from the case, but her request was denied. On February 8, she proceeded with Barrientos's apprehension, but immediately after hearing his plea, approved that he be kept under house arrest and present himself every 15 days. The prosecutor's investigation failed to clarify the facts of the case or even whether the crime occurred. On June 26, Judge Paiz shelved the case and lifted all constraints on Barrientos. Throughout the entire period, Barrientos, despite being charged with rape of a minor, continued working as the assistant prosecutor for minors.

Sexual exploitation of children is a growing problem, including child prostitution and the trafficking of children for purposes of prostitution. In a March report, the Institutional Coordinator for the Promotion of the Rights of the Child found that there are more than 15,000 sexually exploited boys and girls in the country. The Ministry of Labor noted an increase in child prostitution in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings, who force the children into prostitution (see Section 6.f.). The proposed Minor's Code would have mandated stricter punishments for parents who force their children into prostitution, and for adults who solicit child prostitutes. In November the Social Secretariat for the Welfare of Children, in conjunction with a commission of NGO's and other government ministries, presented the

National Plan of Action against Sexual Exploitation of Children in Guatemala. The plan is an initiative to fight child prostitution and pornography, trafficking of children, and sex tourism.

Child labor is a problem; however, in July the government initiated a program to eliminate the worst forms of child labor (see Section 6.d.).

The internal conflict left approximately 200,000 orphans throughout the country. Approximately 10,000 children were in gangs, and 6,500 children lived on the streets; there are an estimated 4,000 street children in Guatemala City. In August 2000, the Archbishop's Human Rights Office issued its report on children missing in the armed conflict (see Section 1.b.). A report by the Archbishop's Human Rights Office issued in September found that children accounted for 20 percent of the victims of arbitrary extrajudicial executions during the armed conflict, and that 27 percent of the victims of sexual abuse committed during the armed conflict were children.

Abuse of street children remained a serious problem in major cities (see Section 1.c.). Most credible estimates put the number of street children at approximately 6,500 nationwide, with about 4,000 of these youths concentrated in Guatemala City. The NGO Casa Alianza increased its estimates of the number of homeless persons to 25,000, of whom 8,000 are children. The majority of street children ran away from home after they were abused. Criminals—reported to include private security guards and corrupt police or military personnel—often recruited these children into thievery or prostitution rings. According to Casa Alianza, drugs, prostitution, and gangs posed the greatest danger to this vulnerable group during the year. Individuals, private security guards, and other street children—not police or other government forces—committed most violence against street children. In May Casa Alianza lodged formal complaints against two private security guards for the rape and shooting of street child Sandra Herlinda Ponciano Ichiche. The Government and a number of NGO's operate youth centers, but the funds devoted to them are not sufficient to alleviate the problem. The Government maintains one shelter for girls and one shelter for boys in Guatemala City; these shelters provide housing for the homeless and incarceration for juvenile offenders. A new phenomenon developed as street children began giving birth to a second generation of street children, called "street babies."

In November 2000, the Government, in compliance with a decision by the IACHR, agreed to compensate the families of the street children who were killed between 1990 and 1995 (see Section 1.a.). In addition to the modest \$11,500 (92,000 quetzals) per victim compensation, the Government also promised to develop programs to prevent the abandonment of and violence against street children. The payment was made in December, but there has been little progress on the additional commitments.

COPREDEH continued weekly meetings of the Permanent Commission for Children, composed of representatives from Casa Alianza and from the judicial and executive branches, with the aim of addressing the problems of street children. The Government continued its program to train instructors to educate civil society groups and the public about children's rights. In May the Supreme Court presented a project to modernize the juvenile justice system (see Section 1.e.).

In February a study by the Human Rights Ombudsman's Office found anomalies in a high percentage of the adoption cases reviewed. On July 1, police rescued four infants they claimed were being cared for under orders from attorneys who sell children for adoption. A similar press report on July 2 reported that police apprehended "baby stealers" who allegedly tried to buy, and then steal the baby of a mother as she was leaving the hospital.

Persons with Disabilities.—The Constitution provides that the State should protect persons with disabilities; however, persons with physical disabilities suffer discrimination in education and employment practices, and few resources are devoted to combat this problem or to assist persons with disabilities. In 1996 Congress passed the Law on Protection of the Elderly and the Law on Attention to Disabled Persons, which mandates equal access to public facilities, prohibits discrimination based on disability, and provides other legal protections. The law defines a person with disabilities as one whose physical, mental, or emotional deficiencies limit performance of normal activities. It stipulates equal opportunity for persons with disabilities in health, education, work, recreation, sports, and cultural activities. It also provides that all persons with disabilities receive the benefits of labor laws and social security and have the right to work. In addition, the law establishes equal education opportunities, the requirement that buildings meet access codes, and the right to equal pay. Government efforts to implement the legislation have been weak. While the National Council for the Disabled, composed of representatives of concerned government ministries and agencies, met regularly to discuss initiatives, es-

essentially no resources have been devoted to the implementation of their recommendations. In its 2001 report, the PDH highlighted the situation of persons with disabilities (estimated at 1 percent of the population), noting that they are marginalized; suffer from discrimination; and have limited access to health care, recreational, educational, and work opportunities. Children with physical disabilities often are discouraged from attending public schools, as teachers believe that they will not learn at the same speed as others. The majority of the universities are not handicapped accessible. The PDH reported that the National Hospital for Mental Health, the dominant healthcare provider for persons with mental illness, lacks basic supplies and equipment. Patients suffer from unhygienic living conditions and a shortage of medical professionals. Reports of sexual abuse by the staff are common.

Indigenous People.—The Constitution states that the country is composed of diverse ethnic groups and obliges the Government to recognize, respect, and promote the lifestyles, customs, traditions, forms of social organization, and manner of dress of indigenous people.

Indigenous people constitute over one-half the population but remain largely outside of the country's political, economic, social, and cultural mainstream. An October 2000 U.N. report stated that 73 percent of indigenous persons, and 72 percent of those living in rural areas, face an institutional lack of economic possibilities and limited access to basic services. The 1994 census, the most recent, stated that 42.8 percent of the population is indigenous; however, most observers believe that this figure is low and that indigenous people constitute a majority of the population. There is no single indicator of indigenous status, and there are at least 22 separate Mayan ethnic groups, each with its own language. In addition to the indigenous Mayan groups, there is an indigenous Xinca community of some 6,000 persons. The Garifuna, descendants of Africans brought to the Caribbean region as laborers who later migrated to South and Central America, are a separate minority group.

In 2000 when the Government designed a new 2000–2004 timetable for the implementation of the Peace Accords, it remained clear that the majority of the provisions regarding indigenous rights were incomplete. Among the initiatives still pending are educational reforms that include bilingual and intercultural components, promotion of the use of indigenous languages, and the conservation and protection of ceremonial sites.

Indigenous people were the most common victims of extrajudicial killings and other serious human rights abuses during the internal conflict. The commissions established to discuss the implementation of constitutional provisions relating to indigenous rights met during the year to formulate recommendations to the Government regarding protection of indigenous culture, languages, traditions, lands, and sacred sites. Indigenous people continued to organize themselves into interest groups to promote bilingual education, women's rights, and community development. Politically, the indigenous groups remained fragmented, and there was little agreement among the Mayan groups on common goals or strategies to increase their political representation and power. The Government devoted marginally increased resources to bilingual education. Since 1999 there have been no reports of schools denying children the right to wear traditional indigenous dress, a common complaint under the previous administration.

Rural indigenous people have limited educational opportunities and thus have fewer employment opportunities. For this reason, indigenous men constitute a very high percentage of the military's ranks. Many indigenous people are illiterate or do not speak Spanish. A disproportional number of indigenous girls do not attend school. The Government has devoted little resources to bilingual education and the Ministry of Education has yet to implement the recommendations made by the Commission on Educational Reform. In 1998 the Indigenous Languages Officialization Commission issued a report in which it recommended that a variety of public services be provided in the four most widely spoken indigenous languages (K'iche', Q'eqchi', Mam, and Kaqchikel), with a lesser degree of services provided in less widely spoken indigenous languages. This initiative is pending implementation under the recalendarization of the Peace Accords.

In 1997, as called for by the Peace Accords, a Commission for the Definition of Sacred Places was created to discuss the mechanism for the administration, use, and preservation of places sacred to indigenous people. The commission dissolved in 1998 without reaching an agreement, but was reinstated in October with the mandate to design a policy to establish, recognize, and protect such areas.

Indigenous people arrested for crimes often are at a disadvantage due to their limited comprehension of Spanish. The Criminal Procedures Code states that the courts must provide interpretation for anyone requiring such services during criminal proceedings. According to the Planning Office of the Public Ministry, during the

year, there were 87 interpreters at all levels of the legal system, from the police to the formal courts, to assure non-Spanish speakers the means to bring complaints, resolve conflicts, and provide testimony. Interpreters were concentrated in former conflict areas of the country; more interpreters were in training. Despite these initiatives, reports continued that indigenous people often did not have equal access to the justice system. In June four persons were detained in El Estor as suspects in a homicide case. They subsequently were transferred to Zacapa where their statements were taken. Because one of the men spoke only Kekchi, and the Public Ministry in Zacapa had no interpreter available; the judge allowed one suspect to translate for another. The Public Defender's Office began hiring attorneys fluent in indigenous languages and assigning them to areas where they could serve as translators in addition to defending their clients. By year's end, they had hired five bilingual public defenders. The Government also made efforts to recruit justices of the peace who are bilingual in Spanish and an indigenous language. The University of San Carlos offers a postgraduate degree in indigenous customary law. Judges, prosecutors, public defenders, judicial translators, and others already have received the degree, which emphasizes criminal law and human rights.

In August the public defender's office created offices in Quetzaltenango, Quiché, and Alta Verapaz to reduce discrimination against indigenous people, particularly by providing access to the justice system.

In 511 tribunals around the country there are only 69 judges that speak Mayan languages and only 60 interpreters assist the remainder. In the police, 14 percent of officers are indigenous.

On April 26, the UNCHR unanimously approved the creation of a Special Rapporteur for the defense of the rights of indigenous people. On May 18, UNESCO declared the language, dances, and music of the Garifuna people to be part of the international cultural patrimony. The measure, intended to help protect the Garifuna culture, largely was unnoticed, even by officials from the coastal area of Izabal where the Garifuna populations are located. The culture of another very small ethnic group, the Xinca of southeastern Guatemala, was also in danger of extinction.

In late May, the military base at Quetzaltenango hosted a day of reconciliation with representatives of 23 ethnic groups from around the country. More than 80 percent of the victims of killing during the war were Mayan, and 93 percent of the human rights abuses were committed by the military. Some observers criticized the event as a farce, while others described it as an important first step toward reconciliation. In June the President announced that every public school in the country would receive a series of texts: Literary works, reference books and historical works. Included in the package is the *Popol Vuh*, a primer on Mayan cosmology.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide workers with freedom of association and the right to form and join trade unions; however, in practice the government does not enforce effectively labor laws to protect workers who exercise their rights. All workers have the right to form or join unions, including public sector employees, with the exception of members of the security forces. Approximately 2 percent of the work force is unionized. The Government does not control unions. There is no state interference in union activities; however, internal intelligence services may monitor the activities of some politically active union leaders. In April and May the National Legislature passed two sets of reforms to the national Labor Code. An ILO direct contacts mission headed by Adrian Goldin that visited the country in April noted that these reforms "constitute a significant step forward in the application of Conventions Nos. 87 and 98, in that they repeal or amend many of the provisions criticized by the Committee of Experts. The first set of the new labor law reforms redefined the mission of the Labor Ministry, from exercising "strict oversight to ensure unions operate legally" to guaranteeing "the free exercise of union rights." The May reforms also permitted industrial, or sectoral, unions. Legal recognition of a new industrial union requires that the membership constitute one-half plus one of the workers in an industry. Labor activists consider this requirement to be a nearly insurmountable barrier to the formation of new industrial unions.

The May reforms accord initial jurisdiction over labor law violations to the Labor Ministry, and set forth procedures for processing complaints, making initial determinations, and fining violators—new enforcement powers previously reserved to the labor courts. The Ministry of Labor may levy substantial fines for violations of labor rights; however, in practice, the Ministry has not used these new powers. Fines may be appealed to the labor courts. The labor inspection system remains ineffective, inadequate, and corrupt, despite continuing efforts at improvement. Low pay, the lack

of a strong ethic of public service, and ineffective management prevent the Ministry from providing effective, honest service.

Retaliation—including firing, intimidation, and sometimes violence—by employers and others against workers who try to exercise internationally recognized labor rights is common and usually goes unsanctioned. In April the government accepted the visit of an ILO Direct Contacts Mission to investigate lack of progress in investigations of about a dozen killings of unionists between 1995 and 2000. In June the Prosecutor's Office assigned a Special Prosecutor for Crimes Against Unionists and Journalists to review these and all new cases involving unionists. Clarification of these crimes would establish which of these crimes constitute violation of the right of association. The Prosecutor's Office is handling 38 cases against unionists, 19 cases were in the investigatory phase at year's end. One arrest warrant was issued against the Mayor of Tumbador, San Marcos Province, Fredy Radinel Vasquez Orozco. He was arrested for labor rights violations but was released. The ILO's Committee on Freedom of Association continues to monitor about a dozen allegations of serious violence against individuals for unionizing activities that lack credible investigations, prosecutions, or trials. The most common violation of freedom of association is the dismissal of workers for unionizing activity. Some workers who alleged illegal dismissal take their case to the labor courts and win injunctions of reinstatement. Appeals and reappeals by the employers, along with legal ploys such as reincorporation as a different entity, often prolong proceedings for years. The labor courts do not dismiss frivolous appeals, nor are their decisions enforced. According to Labor Ministry officials, the labor courts vindicate the majority of workers' claims against employers; however, employers comply with the court decisions in only a small number of cases, creating a climate of impunity. Often employers are not disciplined for not complying with legally binding court orders.

In 1998 DYMEL, SA was contracted to build a coal-fired power plant. During construction of the plant, DYMEL's workers, most contracted for the duration of the construction phase of the project, formed a union. DYMEL then fired 72 union organizers without required court permission. The workers went to court and won a judgment reinstating them with back pay. After appeals by DYMEL, the verdict was upheld by the Constitutional Court in May. Meanwhile, DYMEL had completed the project, reorganized its corporate identity to shelter itself from claims, and moved all assets and operations back to El Salvador. The workers began a hunger strike on the doorstep of the Presidential Offices in late November, which continued at year's end.

Throughout the economy, employees were reluctant to exercise their right of association for fear of reprisal by employers. Workers had little confidence that the responsible executive and judicial institutions would defend effectively their rights as employees when employers violated those rights. In addition the weakness of labor inspectors, the failures of the judicial system, poverty and lack of education, the legacy of violent repression of labor activists during the internal conflict, a climate of impunity, and the deep-seated hostility of the business establishment towards independent and self-governing labor associations constrained the exercise of worker rights. In addition to the ILO's criticism, MINUGUA's 4th Report on the Peace Process noted that "genuine trade union freedom does not exist" due to antiunion violence. It also reported a significant gap between the problems regarding workers' rights and the resources applied by the Government to solving these problems.

On December 21, Baudilio Cermeno Ramirez, the Organization Secretary of the Light and Energy Union, was murdered when leaving his home. The case is being investigated by the Special Prosecutor's Office. At year's end, no results of the investigation were available. While union groups called for a through investigation, there was no public evidence that the murder was politically motivated.

An investigation continued into the June 2000 killing of Oswald Monzon Lima, the Secretary General of a fuel drivers' union. He had been fired for forming a union at the trucking firm and for criticizing the corruption widespread in the firm.

An active "solidarismo" movement claims to have approximately 170,000 members in about 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between the two or to belong to both. The Government views these associations as civic organizations that need not interfere with the functioning of trade unions. The Labor Code stipulates very clearly that trade unions have an exclusive right to negotiate work conditions on behalf of workers. However, unions charge that management promotes solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. Representatives of most organized labor groups criticize these associations, asserting that they do not permit strikes, have inadequate grievance procedures, and are meant to displace genuine, independent trade unions and are employer-

dominated. There were credible reports that some associations did not adhere to democratic principles.

The administrative process for unions to obtain legal status has been simplified over the past decade. In 1996 the Ministry of Labor reduced the number of steps needed to adjudicate union applications and mandated a deadline of 20-workdays for reaching a decision. Labor Code reforms adopted in April authorized the Labor Ministry to establish a free legal assistance service for workers who desire to unionize. Labor Code reforms adopted in May contained provisions designed to further simplify the Ministry's application and recognition process, and strengthen union members' ability to demand transparency in union activities. The Ministry of Labor registered 60 new unions during the year and accredited 120 new union elections during the same period. In 2000 The Labor Ministry granted legal status to 45 unions, and in 1999 there were 1,389 registered unions—401 in the public sector and 988 in the private sector.

The approximately 1,300 registered unions were generally independent of government and political party domination.

In March a trial court's 3-judge panel unanimously convicted 22 individuals (among them most of the leaders of the vigilante action) on charges of coercion and illegal detention for the October 1999 take over of a SITRABI banana workers union hall. All were acquitted of aggravated trespass, the third charge lodged against them. The court sentenced each of the 22 to terms of 3 years and 6 months, commutable by payment of fines. The fines varied depending on the income level of the individual convicted. After testifying at the trial, the SITRABI union leaders who were the principal targets of the vigilante assault fled the country for fear of retaliation. Leaders of the group repeatedly threatened to kill some of the union leaders. During the incident, about 20 rank and file union members were held captive. Various union leaders and rank and file members were pushed and beaten. Union leaders were forced to sign letters of resignation from their positions in the union and from their jobs. BANDEGUA had fired nearly 900 workers in September 1999, in violation of the contractual agreement in force between the enterprise and the trade union.

According to MINUGUA, law enforcement failures in this incident included police inaction as the incident took place and lapses in applying the Code of Criminal Procedure during the indictment phase. In June 2000, the court of first instance had rejected charges of abduction, intimidation, aggravated trespass, and aggravated illegal detention sought by the prosecution and instead arraigned 24 defendants on lesser charges of trespassing, detention, and coercion.

In October 2000, the Ministry of Labor facilitated the completion of a collective bargaining agreement between the SITRABI union and the contractors who had taken up operating the plantations on which the 900 workers previously had worked as direct-hire BANDEGUA employees. In February BANDEGUA and its remaining direct-hire workforce agreed to a collective bargaining agreement. Despite some efforts by BANDEGUA, its independent contractors, and the SITRABI union, labor relations were marred by wildcat strikes and angry confrontations between workers and management. The union alleged that BANDEGUA and its independent producers had failed to meet some of their commitments under their respective collective bargaining agreements, including payment of mandatory social security taxes and provision of enough piecework to permit workers to earn the minimum wage. In addition, these agreements called for the reinstatement of the fired workers. According to SITRABI, by year's end, this issue was resolved, and no former BANDEGUA workers were seeking reemployment.

On July 18 and 19, antiunion workers attacked union organizers involved in a legally registered union organizing drive in the Choi Shin/Cimatextiles maquila plants. Credible reports allege that management through floor supervisors planned and organized the antiunion violence (consisting of beatings and bottle and rock throwing which caused several minor injuries) and intimidation. The police, claiming that the mob was out of control, refused to enter the factory to protect the workers under attack. Twenty-two unionists filed a complaint with the Special Prosecutor for Crimes Against Unionists. During the week following the violence, the Ministry of Labor brokered two agreements between union organizers, Choi Shin/Cimatextiles management, and the maquila employers association (VESTEX). Those agreements included management commitment to recognize the new unions and respect the workers' right to organize, reinstatement without loss of status and safe return to work for unionists, internal (company) sanctions of aggressor workers, and pledges by the company to assure all employees that it had no intention of closing because of the formation of unions. Subsequent to the antiunionist violence in July, union supporters and NGOs credibly alleged an ongoing low-intensity intimidation campaign by management, intended to limit participation in union organizing activi-

ties. Actions alleged have included physical harassment of a union leader by a private security agent on company property, force resignations and firing of some union members, threats of blacklisting, shifting production to other facilities, and creating an antiunion climate by promoting rumors that the factories would close as a result of unionization.

Violations of the right of association also occurred in the public sector. In September MINUGUA highlighted the cases of intimidation, threats, and illegal firings of municipal workers by public officials in Cuilapa, Santa Rosa; Guastatoya, El Progreso; Tecpan, Chimaltenango; and La Gomera, Escuintla. In addition, the management of Ministry of Health hospitals in the capital and in Cuilapa, Santa Rosa, refused to recognize union leaders or tried to replace them with others, and the Ministry has not complied with terms of a collective bargaining agreement negotiated by the previous Administration.

Workers have the right to strike. However, the very low level of unionization and procedural hurdles make legal strikes rare. The reforms adopted in May rescinded the provision—long noted by the ILO as an unwarranted constraint on the right of association—that prohibited seasonal agricultural workers from striking during harvest time. The Labor Code reforms adopted in April reduced from two-thirds to one half plus one the number of a firm's workers required to call a legal strike. The Labor Code requires that a labor court consider whether or not workers are conducting themselves peacefully and have exhausted available mediation before ruling on the legality of a strike. The Labor Code reforms adopted in May created new procedures that workers in essential services (health, utility, and communications) must follow to exercise legally the right to strike. However, other changes in the Labor Code gave the President and his cabinet the power to suspend any strike deemed "gravely prejudicial to the country's essential activities and public services." Employers may suspend or fire workers for absence without leave if authorities have not recognized their strike as legal. The strike regulation law calls for binding arbitration if no agreement is reached after 30 days of negotiation. For a strike to be declared, workplace election must be held, and 50 percent plus one person present, including workers and management, must vote in favor of the strike. The union then must petition a labor court for permission to strike. The judge calls the petitioners and employer representatives before the court and forms a Conciliation Tribunal to seek resolution of the conflict. If no agreement is reached, the parties can go to binding arbitration, or the judge may rule on the legality of the strike. In practice, this can be a lengthy process, and few strikes are upheld.

There were no significant legal strikes during the year. However, a 24-hour nationwide demonstration involving work stoppage was called by labor unions and then joined by employers, to protest Government plans to increase the value-added tax. The strike closed most factories and businesses for a day, but did not generate large crowds of protesters. However, there was rioting in two provincial capitals.

The Labor Code provides for the right of employers to fire union workers for cause, permits workers to appeal their dismissal to the labor courts, and requires the reinstatement within 24 hours of any unionized worker fired without cause. The Labor Code also prohibits employers from firing any member of the executive committee of a union and also protects them for 12 months after they are no longer on the executive committee. An employer may fire a member of the union's executive committee for cause only after a trial in a labor court and issuance of a court resolution. Even in clear-cut cases, labor laws have not been enforced adequately. Despite governmental, bilateral, and multilateral efforts to restructure and modernize the labor court system, the system remained ineffective. There are 20 labor courts—7 in the capital and 13 located elsewhere around the country. An additional nine courts address labor issues, primarily appeals, as part of their jurisdiction. The weakness of the judicial system as a whole, the severe shortage of competent judges and staff, a heavy backlog of undecided cases, and failure to enforce effectively court rulings, all contribute to the labor courts' lack of credibility and effectiveness. The small number of competent and motivated labor inspectors and the lack of training and resources devoted to detecting and investigating Labor Code violations compound the weakness of the labor courts. UNICEF, the ILO, and MINUGUA continue to urge the Government to speed up the administration of justice to ensure the strict enforcement of labor laws. MINUGUA singled out the Third Judge for Labor for egregious delays in legal procedures stemming from a dispute involving a bank workers union dating to 1997. The Judge took more than 3 years to convoke the parties before a conciliation tribunal, which should have taken place within 36 hours.

However, government efforts to improve the labor inspection system, begun in 2000, continued. After substantially expanding the size of the inspector corps in 2000, the Ministry of Labor increased its rate of inspections and fired some incom-

petent or corrupt inspectors. Some of these inspections involved a campaign to improve compliance with labor standards in the in-bond processing for export or “maquila” sector. Others focused on ensuring compliance with minimum wage provisions.

Under the revised Labor Code, complaints can be heard at the Ministry of Labor rather than requiring that inspectors travel to each work site. The Ministry also instituted a set of complaint assistance, small claims mediation, and information providing initiatives designed to provide better services to workers. The Ministry continued its educational campaign on worker rights (especially the rights of minors and women), which included a campaign of radio spots and the provision of some educational materials in indigenous languages. In an effort to improve enforcement of the Labor Code outside the capital, the Ministry of Labor continued to decentralize its operations. Seven of the Ministry’s offices outside the capital have been accorded regional authority. These regional offices, in addition to labor inspectors, also include specialists in women and workplace issues, management-worker relations/conflict resolution, and minor workers/child labor issues. The Labor Ministry plans to give these regional offices supervisory authority over branch offices in the departmental capitals of each region.

The Human Rights Ombudsman’s office for economic and social issues receives complaints related to violation of internationally recognized worker rights. The Human Rights Ombudsman’s Office can investigate union complaints and issue a statement, but the office has no enforcement powers beyond attempting to resolve the situation through publicity and moral suasion. The Ombudsman made public statements about labor conditions in various sectors of the economy.

Unions may and do form federations and confederations and affiliate with international organizations.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively; however, the small number of unionized workers limits the practice of collective bargaining. The prevailing business culture ignores labor contracts because, in practice, they are largely unenforceable due to the weak, cumbersome and corrupt legal system. Labor Code reforms adopted in May reduced from two-thirds to one-half plus one the number of union members required to approve a collective bargaining agreement. The ILO Committee of Experts had called for this change; as well as a modification of the Labor Code requirement that the employer submit any new or modified collective bargaining agreement to the Labor Ministry within 15 days of an accord between union and management. This provision remains in practice. The ILO also noted other reforms necessary to provide for full exercise of the right to organize and bargain collectively.

The requirement that 25 percent of the workers in a factory or business must be union members for collective bargaining to take place, lack of experience, and management’s aversion to sharing power with workers also limit the practice of collective bargaining. Management and labor honored collective contracts at some firms; in others, management, and sometimes labor, chose to ignore selected provisions of binding collective bargaining agreements. According to the Ministry of Labor, 23 collective bargaining agreements were registered during the year. Most workers, even those organized in trade unions, do not have collective contracts documenting their wages and working conditions, nor do they have individual contracts as required by law. According to a November 2000 study by the Association for Research and Social Studies, only 10 percent of workers have a contract duly registered with the Labor Ministry as required by law.

The Labor Ministry has worked to promote the restructuring of labor relations in enterprises by encouraging labor-management cooperation and to bring about a “culture of negotiation” as called for by the Peace Accord on Socioeconomic Aspects and the Agrarian Situation. Despite these efforts, productive, good faith negotiations between employer and worker representatives have been the exception rather than the rule. The majority of unions that engaged in collective bargaining during the year reported that some employers continued to reject the underlying premise of collective bargaining—that power in the workplace can be shared according to a contract between the employees and company management for the benefit of both.

The law protects workers from retribution for forming unions and for participating in trade union activities, but enforcement of these provisions is weak. Many employers routinely seek to circumvent Labor Code provisions to resist unionization. An ineffective legal system and inadequate penalties for violations have hindered enforcement of the right to form unions and participate in trade union activities in the past and perpetuates the violence that workers face if they attempt to exercise their rights.

The Labor Code prohibits employers from firing workers for union organizing and protects them from being fired for 60 days following notification to the Labor Min-

istry that a union is being formed. Thereafter, they can be fired for cause, unless they are members of the union's executive committee. During labor conflicts, unions frequently seek a labor court injunction, which prohibits firing without approval of a judge until the conflict is resolved. Although the Labor Code provides that workers fired illegally for union activity should be reinstated within 24 hours, in practice employers have filed a series of appeals or simply defied judicial orders for reinstatement. The Labor Code reforms adopted in May significantly increased—to the equivalent of 10–50 times the current minimum monthly wage—penalties for defying such orders. These reforms went into effect in July; however, effective utilization of these enhanced enforcement powers of the Ministry of Labor has proved difficult. The Labor Ministry, and its corps of labor inspectors in particular, continues to suffer from a lack of respect from employers, inadequate resources, and corruption (see Section 6.a.). As of November 7, the Labor Ministry reported that of 1,371 complaints received since passage of the May reforms to the labor code, only 156 received financial sanctions. Of those, only six had been paid at year's end. None of the fines amounted to more than five times the monthly minimum wage.

The Ministry of Labor has reorganized its labor inspection system to permit some complaints to be heard at the Ministry of Labor rather than requiring that inspectors travel to each work site. The Ministry instituted a set of complaint assistance, small claims mediation, and informational initiatives designed to provide better services to workers. The Ministry continued its educational campaign on worker rights (especially the rights of minors and women), which included a campaign of radio announcements and the provision of some documents in indigenous languages. In an effort to improve enforcement of the Labor Code outside the capital, the Ministry of Labor continued to decentralize its operations. Seven of the Ministry's offices outside the capital have been accorded regional authority. These regional offices, in addition to labor inspectors, also include specialists in women and workplace issues, management-worker relations/conflict resolution, and minor workers/child labor issues. The Labor Ministry plans to give these regional offices supervisory authority over branch offices in the departmental capitals of each region. The number of official inspections continues to increase, from 431 in 1999 to 4,127 in 2000 and 5,703 from January to October.

Labor laws and regulations apply throughout the country, including in the few export processing zones (EPZ's). (Maquilas that make garments for export operate under an EPZ-like regime, although they are not located in distinctly established areas.) The laws governing the EPZ's do not infringe on fundamental rights to organize trade unions or bargain collectively. However, there are no collective bargaining agreements between employers and any of the more 80,000 workers in the export processing zones. Union leaders often cite their inability to organize workers in these zones on employer intimidation and pressure as well as unofficial restrictions on their access to the EPZ's.

c. Prohibition of Forced or Compulsory Labor.—The Constitution bars forced or compulsory labor; however, women are trafficked for the purpose of sexual exploitation (see Section 6.f.). Trade union leaders and human rights groups charge that work requirements sometimes forced workers to work overtime, often without premium pay (see Section 6.e.). The law does not specifically prohibit forced or bonded labor by children, but they are covered by the general constitutional provision. Forced or bonded labor by children generally did not occur; however, children were trafficked for the purpose of sexual exploitation (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution bars employment of minors under the age of 14 without written permission from the Ministry of Labor. However, the informal and agricultural sectors regularly employ children below this age, usually in small family enterprises. Economic necessity forces most families to have their children seek some type of employment to supplement family income, especially in rural and indigenous communities. In December 2000, MINUGUA found that 34 percent of children between the ages of 7 and 14 work. Most minors work at household chores, in subsistence agriculture, in family-run enterprises, and elsewhere in the informal economy.

According to the National Statistics Institute, from 1998 to 1999 there were 326,095 children doing paid work, and 495,780 doing chores in the home. An estimated 80 percent of work accidents involve 15 to 18 year old workers who lack proper safety training. The law prohibits minors from night work and extra hours (the legal workday for minors under the age of 14 is 6 hours; for minors 14 to 17 years of age, it is 7 hours), from work in establishments where alcoholic beverages are served, and from work in unhealthy or dangerous conditions. The ILO's International Program on the Elimination of Child Labor is active in the fireworks industry. The Labor Ministry estimated that approximately 10 percent of the children in this industry work illegally in factories, while younger children, under the age of

14, typically work at home on piecework taken in by their families. In July 2000, an explosion in a family-run home fireworks workshop killed three siblings, including a 13-year-old who were working in their father's illegal fireworks factory in San Raymundo Sacatepequez was typical of accidents that occur regularly in the informal cottage fireworks industry. According to press reports an average of 25 persons, the majority minors, suffer burns and amputations for accidents in the fabrication of fireworks. For example, on December 10, eight persons died in a clandestine fireworks factory in Villa Nueva, near the capital. The victims included a 12-year-old child and an 18-month-old child. Another 12-year-old survived with third degree burns. Between 3,000 and 5,000 children were employed in the illegal cottage-based fireworks industry.

Laws governing the employment of minors are not enforced effectively, due to the weakness of the labor inspection and labor court systems. The Association for Girls and Boys in Central America estimates that approximately 2 million children work in the region. The majority of child laborers work in agriculture (family farms, coffee, and sugar cane harvesting), while others work in domestic service, construction, various family businesses, stone quarrying, rock-breaking, fireworks manufacturing, shining shoes, begging, performing in the streets, or other jobs. Between 1995 and 1999, the Ministry of Labor issued 507 permits authorizing the employment of minors. The Ministry of Labor's efforts to reduce the number of these permits resulted in an increased number of minors applying for work with falsified age documents. Many children under the age of 14 work without legal permission and are vulnerable to exploitation. Their illegal status makes them ineligible to receive social benefits, social insurance, vacations, or severance pay, and they often earn salaries below the minimum wage.

The Labor Ministry has a program to educate minors, their parents, and employers on the rights of minors in the labor market. In 1992 the Government formed the Child Worker Protection Unit within the Ministry of Labor, which enforces labor restrictions on child labor, and educates minors, their parents, and employers on the rights of minors in the labor market. In 2000 the Ministry of Labor, with the support of a group of NGO's, finalized a National Plan for the Prevention and Eradication of Child Labor and Protection of Adolescent Workers. In July the Ministry launched a national campaign to eliminate the worst forms of child labor. In September the Government ratified ILO Convention 182. The Government's main action to implement Convention 182 was the Cabinet's approval of the National Plan to Eradicate Child Labor in March.

The labor law does not specifically prohibit bonded labor by children; however, the Constitution prohibits forced or compulsory labor. Bonded labor by children generally did not occur; however, children were trafficked into prostitution (see Section 6.f.).

e. Acceptable Conditions of Work.—The law sets minimum wages; however, non-compliance with minimum wage provisions in the rural and informal sectors is widespread. As minimum wage provisions have become more complex through inclusion of a monthly "incentive bonus" and as the minimum wage has risen during the year and with a deepening economic crisis affecting the coffee growing sector, non-compliance with the law, which was already high, also has risen. Advocacy groups that focus on rural sector issues estimate that more than half of workers engaged in day long employment in the rural sector do not receive the wages, benefits, and social security allocations required by law. Minimum wage laws do not extend to domestic workers.

The Ministry of Labor oversees a tripartite committee, made up of formal sector representatives of labor and management, that makes recommendations for increases in the minimum wage. In the event that agreement is not reached in the tripartite commission, the Government may decree such increases. The Labor Code reforms adopted in May placed responsibility for drafting the decrees setting new minimum wage levels, should there be no consensual proposal submitted by the tripartite commission, on the Labor Ministry.

On December 16, 2000, a minimum wage increase, promulgated by Executive Branch decree after the tripartite commission was unable to reach a consensus, took effect. This decree raised the minimum daily wage for agricultural work by \$0.45 (3.46 quetzals) to \$3.24 (25.08 quetzals). It raised the minimum daily wage for service, industrial, and government sector work by \$0.49 (3.82 quetzals) to \$3.57 (27.67 quetzals). In March 2000, the Congress mandated by decree an incentive bonus that augments the minimum wage by paying for each hour worked—\$0.09 (0.6725 quetzals) per hour for agricultural workers and \$0.08 (0.64375 quetzals) per hour for industrial and other workers. The legal minimum wage for a regular 8-hour day then became \$3.93 (30.46 quetzals) for agricultural work and \$4.32 (32.82 quetzals) for service, industrial, and government sector work. On August 6, the Government

decreed an increase in the mandatory monthly bonus for all workers to \$31.25 (250 quetzals) from a previous level of \$20.20 (162 quetzals) for agricultural workers and \$19.30 (154 quetzals) for non-agricultural workers.

The minimum wage was not sufficient to provide a decent standard of living for a worker and family. According to the UNDP, at least 80 percent of the population, including approximately 60 percent of the employed, lives below the poverty line. The Ministry of Labor conducts inspections to monitor compliance with minimum wage provisions; however, the Ministry of Labor lacks the resources to enforce adequately the minimum wage law.

The legal workday is 8 hours and the workweek is 44 hours, but this is not respected, and a tradition of longer hours remains in place. These limits do not apply to domestic workers. The Labor Code requires a weekly paid rest period of at least 24 hours. Trade union leaders and human rights groups charge that work requirements sometimes forced workers to work overtime, often without premium pay. Labor inspectors report uncovering numerous instances of such abuses, but the lack of stiff fines or strong regulatory sanctions, as well as inefficiencies in the labor court system and enforcement of court orders, have inhibited adequate enforcement of the law.

Occupational health and safety standards are inadequate. Many of the provisions of the applicable law—dating to 1957—are archaic, making enforcement problematic. During the year, as part of its effort to address this situation, the Ministry of Labor participated in a number of regional international initiatives intended to sensitize employers and workers to health and safety risks in the workplace. The Labor Ministry provides training courses for labor inspectors in health and safety standards, and has given such training priority despite scarce resources.

Enforcement of occupational health and safety standards that do exist and could be applied reasonably is weak. When serious or fatal industrial accidents occur, the authorities often fail to fully investigate and assign responsibility for negligence, if any. Employers rarely are sanctioned for having failed to provide a safe workplace; however, the authorities did suspend one maquila operation for safety shortcomings, and threatened about a dozen others with a suspension of operations if they failed to improve safety conditions. Legislation requiring companies with more than 50 employees to provide onsite medical facilities for their workers has not been well enforced; however, most large employers did provide such facilities for their employees. The fireworks industry is particularly hazardous (see Section 6.b.). Workers have the legal right to remove themselves from dangerous work situations without reprisal. However, few workers are willing to jeopardize their jobs by complaining about unsafe working conditions.

A report by the Women's Rights Division of Human Rights Watch, alleged that women workers, especially in the domestic and maquila for-export manufacturing sector, suffer from high rates of discrimination and sexual harassment. One third of a sample of 29 domestic workers reported sexual harassment at work, according to the report. Labor law exempts domestic workers from the right to an 8-hour workday and the 48-hour workweek, provides domestics only limited rights to national holidays and weekly rest, and "by and large" denies domestics the right to employee health care under the national social security system. While the labor code stipulates that all workers have the right to the minimum wage, domestic workers are denied this right by executive decrees.

The report alleged that maquilas often obligate women to reveal whether they are pregnant as a condition of employment, either through questions on job applications, in interviews, or through physical examinations. Approximately 80 percent of the 80,000 maquila workers are women.

f. Trafficking in Persons.—The law specifically prohibits trafficking and smuggling of persons; however, trafficking in women and children is a problem. The country is a source and transit country for international trafficking of persons. In a few cases, it is also a destination country. Trafficked persons come mainly from other Central American countries including El Salvador and Ecuador. Victims trafficked to Guatemala are usually young women or children who are trafficked for sexual exploitation. Most of the minors brought to the country are trafficked for sexual exploitation and placed in poor surroundings and paid low salaries. A 1999 study by the NGO Pro-niños, Niños Centro Americanos (PRONICE) suggests that fraud and threats are a common form of recruitment. Usually traffickers choose pretty girls that belong to poor families. The most common "contracting places" are along the borders. Those trafficked from Guatemala for sexual exploitation are usually minors, both boys and girls, from poor families. The traffickers often approach these individuals and offer them lucrative jobs, which would allow them to make regular remittances back to their families. The methods of approach include promises of economic rewards, jobs in cafeterias or beauty parlors, or jobs in other countries. The

means of promotion include flyers, newspaper advertisements, and verbal or personal recommendations.

The press has alleged that some Immigration Service officers accept bribes in return for allowing traffickers to bring children into the country for purposes of sexual exploitation.

The Government is making significant efforts to combat trafficking despite resource constraints and endemic corruption. The law specifically prohibits trafficking and smuggling of persons. The Government investigates trafficking cases; however, there have been no prosecutions of trafficking cases since victims often fail to press charges due to a cumbersome judicial system. Prison sentences for traffickers are commutable. The Government does not assist or protect victims of trafficking, although victims are not treated as criminals. The Government has conducted antitrafficking and antismuggling public awareness campaigns, and it provides limited funding to NGO's dedicated to preventing trafficking.

The Defense of Children's Rights unit in the Human Rights Ombudsman's Office and the Minors' Section of the Prosecutor's Office regularly investigate cases of trafficking. Officials in the Labor Ministry also raise the issue with the police and social welfare agencies as part of their efforts to combat child labor and child exploitation. NGO's that focus on women and children's rights often help victims of trafficking and work to educate the population about the dangers of trafficking.

Guatemala is a significant transit country for alien smuggling, both from neighboring Central American countries and Ecuador and from China, Taiwan, and South Asia; aliens often are smuggled to the United States. Traffickers use force, coercion, fraud, and deception. In one instance, Chinese male victims apparently agreed to debt bondage to pay off their transportation costs, while female victims, some of whom were under age 18, apparently were being taken to the United States to work as prostitutes. The victims were told that their families in China would suffer if they broke the debt bondage agreement.

The Ministry of Labor, UNICEF, and the U.N. Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography, visited the country in 1999, and noted a marked increase in child prostitution over in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings, which facilitate children working as prostitutes. In its 1999 annual report on the state of children, the Archbishop's Human Rights Office identified the growing problem of child prostitution as inextricably linked to that of trafficking in persons. The report notes that no child prostitute "got there alone."

GUYANA

The Co-operative Republic of Guyana has a multiparty political system based on proportional representation. Citizens elect an executive president and a 65-member unicameral parliament. The President appoints a prime minister and a cabinet. In March citizens voted in a generally free and fair national election to reelect the People's Progressive Party (PPP) and its Civic (C) partner. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. Social unrest and occasional violence marred the postelection period, with the main opposition party alleging that election procedures violated the Constitution; international observers considered these charges to be unfounded. The judiciary, although constitutionally independent, is inefficient and often appears subject to government influence.

The Guyana Defence Force (GDF) and the Guyana Police Force (GPF) are under effective civilian control. The GDF is a professional military responsible for national defense, internal security, and emergency response. The GPF, which includes a Target Special Squad (TSS) that has some paramilitary training, has the authority to make arrests and is responsible for maintaining law and order throughout the country. Some members of the police force committed human rights abuses.

The country has a population of approximately 700,000. The economy, which for years was controlled under a system of central planning, is based on a mix of private and state enterprises. Rice, sugar, bauxite, gold, shrimp, and timber are the major exports. There are severe shortages of skilled labor, and the economy is constrained by an inadequate and poorly maintained infrastructure for transportation, power distribution, flood control, and communications. The economy continued to decline, following negative real economic growth unofficially estimated at -0.58 percent in 2000. Per capita gross domestic product is estimated at \$852, and a 1999 U.N. Development Program living conditions survey showed that 35 percent of the population live in poverty; 21 percent are extremely poor.

The Government generally respected the human rights of its citizens; however, serious problems remain in several areas. The police continued to commit extrajudicial killings, and police abuse of suspects continued to be a problem. The authorities took some steps to investigate abuses, but in general, the police continued to commit abuses with impunity. Prison conditions remain poor, and lengthy pretrial detention remains a problem. The inefficient judicial system results in long delays in trials. Police infringed on citizens' privacy rights. The authorities filed charges of sedition against two television program hosts. Violence against women and children, societal discrimination against women and indigenous Amerindians, and incidents of discrimination stemming from the racial tensions between Indo-Guyanese and Afro-Guyanese are problems, as is child labor in the informal sector.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The police continued to commit extrajudicial killings. The Guyana Human Rights Association (GHRA) reported that the police killed 15 civilians through September, compared with 13 in all of 2000. In most cases, the police shot the victims while attempting to arrest them or while a crime was being committed. Public investigations rarely are conducted into such killings; in general police abuses are committed with impunity.

On April 9, Donna McKinnon was killed when shots were fired into a crowd gathered on the streets of Georgetown to watch a fire burn in a shopping district. The likely arson-initiated fire occurred during an opposition political protest march. McKinnon's body was found near Freedom House, the headquarters of the PPP, where witnesses claimed the shots originated. TSS officers also fired shots to disperse the crowd. On June 21, a judge ordered an inquiry into McKinnon's death. At year's end, the GPF stated that its investigation had not generated any leads, and that the family was unwilling to have the body exhumed.

On May 10, police shot and killed Junior "Drakes" Stanton in a guesthouse in Georgetown while attempting to arrest him on armed robbery charges. Witnesses said that an unarmed and groggy Stanton unlocked the door and had his hands raised above his head. Police reportedly fired two shots, fatally wounding Stanton in the chest and side.

On May 12, police shot and killed Devon "Buckman" Gonsalves while attempting to arrest him for two murders and a series of robberies. TSS officers followed Gonsalves to the yard where he was hiding and confronted him. Gonsalves was said to have sustained multiple gunshot wounds to the chest and stomach. The GHRA received information that Gonsalves was unarmed.

On June 4, police shot and killed Shamshudeen "Spoon" Mohammed during a demonstration at the Albion Police Station in Berbice in which several thousand residents protested police inaction. During the demonstration, Shamshudeen and three others were wounded when police fired gunshots into the crowd of protesters, who reportedly were stoning and attempting to set the police station on fire with Molotov cocktails. Shamshudeen and the others were taken to a New Amsterdam hospital, where Shamshudeen later died.

On June 8, Rocky Anthony Brunoanish died in the Aurora Police Station lockup. An autopsy revealed that he died of a fractured skull and hemorrhaging from a severe beating. Prior to his death, Brunoanish reportedly asked for medical attention to no avail.

On June 9, Colin "Sadist" Cumberbatch was shot and killed in his home when police attempted to arrest him for a series of armed robberies.

On July 26, members of the TSS shot and killed three men—John Bruce, Steve Grant, and Adisena Houston—on Mandela Avenue. Accounts of the event conflicted; the police reported that the three men exited a car and fired at the officers, who then returned fire. However, eyewitnesses stated that the police forced the men out of the car at gunpoint and shot them execution-style after officers found a pistol while body-searching one of the suspects.

On August 14, Azad Bacchus, his son Shaazad Bacchus, and nephew Fadil Ally were killed in the early morning during a confrontation with members of the Berbice Anti-Smuggling Squad (BASS) following events that included a civilian raid on the Skeldon hospital. Postmortem examinations conducted on the bodies by a government pathologist revealed that bullet wounds were the cause of death. It originally was thought that neither of the two youths had sustained gunshot wounds but had been beaten to death. The family of the deceased received permission for an overseas pathologist to do a second post-mortem examination, which was conducted in August and reportedly confirmed that the three men died of gunshot wounds. At year's end, an inquest was pending.

The BASS confrontation with Azad Bacchus, Shaazad Bacchus, and Fadi Ally triggered 3 days of protests, and on August 16, BASS personnel, confined to their office, started to shoot when demonstrators attacked the BASS office in the Corentyne. Two men, Stephen Angel and Sais Ghani, were shot and killed. In November Angel's family requested that the High Court order a police investigation and an inquest; at year's end, no further information was available.

An inquest was conducted in the case of Mohammed Shafeek, who died in the Brickdam police lockup in September 2000. Although initial police reports had indicated that Shafeek might have been beaten by other prisoners, an investigation revealed that Shafeek was beaten by the Venezuelan crew of a ship that had since left the country, and that the police had arrested him for disorderly conduct. The Police Commissioner stated that Shafeek should have been hospitalized instead of being placed in a prison cell, that procedures would be instituted in the future to ensure that injured prisoners were hospitalized, and that disciplinary action would be taken against police officers involved. In February a witness testified that "two policemen held him (Shafeek) by his hands and feet and threw him against a concrete wall in the lockup." The witness was rearrested 2 weeks after being released, and he said that during this incarceration, TSS officers held a gun to his head and threatened to kill him if he spoke about Shafeek's death. In March the inquest was postponed due to problems in jury member attendance. On November 27, the inquest jury unanimously ruled that the GPF should be held criminally responsible for Shafeek's death; at year's end, the police had filed a challenge against the inquest ruling.

In most of the extrajudicial killings by police in previous years, including the police shootings of Fazal Narine and Colin McGregor in 1999, there were no new developments.

At a June 12 press conference, People's National Congress/Reform (PNC/R) leader Desmond Hoyte called for public inquiry into the operations of the GPF. He accused the TSS of killing more than 100 men in the last 8 years and called for the dismissal of Police Commissioner Laurie Lewis. Lewis retired in September. Hoyte claimed that nearly all of the extrajudicial killings during the past 8 years remain uninvestigated, and accused the TSS of operating under political protection.

On June 14, the PNC/R submitted a motion to the Speaker of the National Assembly calling on President Jagdeo to establish a Commission of Inquiry into the operations of the GPF. The motion criticizes police for involvement in extrajudicial killings and brutality, as well as the impunity with which these alleged offenses are committed. By year's end, the motion had not been placed on Parliament's agenda.

On June 12, the GHRA issued a press statement strongly criticizing the increase in extrajudicial killings and calling for a National Oversight Committee to implement a national security policy. It stated that the GPF is overwhelmed by criminal and politically induced lawlessness. According to the GHRA, eight extrajudicial killings took place during the 2 months after the national elections, and the GHRA recommended investigations into the coincidence of periods of high levels of political lawlessness and such killings.

In June Parliament passed a constitutional amendment that provides that a Disciplined Forces Commission may be established, which could serve to address the allegations of extrajudicial killings and brutality by police.

In March 2000, the U.N. Human Rights Committee made 22 recommendations to the Government, including a call for prompt investigation by an impartial body of extrajudicial killings and excessive use of force. It also called for measures to ensure the prosecution of offenders and to provide effective remedies to victims. The Committee recommended that all law enforcement officials receive thorough training in international human rights standards. The GPF invited the GHRA to participate in a training session for new recruits to address human rights issues on one occasion during the year.

Many justice authorities and human rights activists say that due to rising crime and pressure from urban businesses, which are often the targets of criminals, the Government has taken a lax attitude toward investigation of alleged police abuses.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture; however, police continued to abuse suspects. From 1995 to 1997, the GHRA received an average of 20 complaints per year from victims who had been beaten by police while in custody. The GHRA still considers mistreatment of prisoners by prison officers a problem. Moreover, inmates, attorneys, and judicial authorities provided credible evidence that police and correctional officers frequently ignored the actions of other inmates who beat, robbed, or otherwise mistreated "problematic" prisoners.

On June 8, Rocky Anthony Brunoanish died in the Aurora Police Station lockup, 3 days after he was arrested (see Section 1.a.). An autopsy attributed the death to a severe beating.

The Police Complaints Authority (PCA) is composed of five members who investigate complaints against police officers. The law provides for the independence of the PCA; however, most members are themselves members of the criminal justice system, and the PCA is not truly independent. The PCA received 32 complaints through September (compared with 69 in all of 2000); it completed investigation of 15 of them, and sent them to the Police Commissioner for action. However, there is no information publicly available on the status of these investigations. The PCA has not submitted an annual report since 1995. Even when police officers do face charges, most of the cases are heard by lower magistrate courts, where other specially trained police officers serve as the prosecutors (see Section 1.e.). Human rights monitors question officers' commitment to prosecuting their own colleagues.

The Office of Professional Responsibility (OPR) investigates complaints against police. As of 2000, at least 99 cases had resulted in some type of disciplinary action being taken against police officers. The OPR did not release any information on how many cases it received during the year, how many it completed action on, and how many were awaiting instructions from the Department of Public Prosecutions (DPP).

Prison and jail conditions were poor, especially in police holding cells. Georgetown's Camp Street Prison, the country's largest, is extremely overcrowded. In July a prison officer reported that there were 815 inmates in facility, a decrease from between 900 and 1,100 prisoners in 2000. According to prison officials, the facility is intended to hold 500 inmates; however, the GHRA states that the Camp Street Prison initially was designed to hold 350 inmates. Conditions in the country's four smaller prisons generally are adequate. The GHRA continues to advocate improved health care in the prison system. In addition to overcrowding and a lack of medical personnel, poor staff morale is a serious problem within the prison system. Prison staffers are poorly paid, and their salaries and benefits are insufficient to compensate for the on-the-job risks; however, they have made efforts to improve conditions for prisoners. Prison officials lobbied the Government for increased funding to improve prison conditions; they also encouraged efforts by local and international nongovernmental organizations (NGOs) to improve physical and sanitary conditions.

On July 6, members of a United Kingdom Prison Reform Team recommended that a high level Commission on Criminal Justice be established to address the problems within the prison system. The team spent 18 months reviewing the Prison Service and found the major problems to be overcrowding, poor conditions for prisoners and staff, perceived infringement of basic human rights, minimal rehabilitation, and high cost to taxpayers. The most immediate concern of the team was overcrowding, which was attributed in large part to the lack of alternatives to imprisonment. The team found that more than 80 percent of prisoners were serving time for minor offenses with sentences of only 1 to 3 months.

In October 2000, the GHRA criticized prison authorities for the death of Michael Ramcharran at the hands of another inmate, which the GHRA said was the direct result of overcrowding at the Camp Street Prison. To reduce overcrowding, the GHRA called on the judiciary to consider alternate sentencing for minor offenses, rejuvenation of the Parole Board, and the release of ill prisoners who have completed almost all of their sentences. However, the Government did not adopt any of these recommendations. Since then the Parole Board has become more active, but continued to be reluctant to release prisoners due to insufficient post-release resources, including a lack of probationary staff.

The GHRA noted that protest actions on the roof of the central prison decreased from the previous year; although in July, 16 inmates were on the roof to protest poor prison conditions, police brutality, and lengthy delays in trials (see Sections 1.d. and 1.e.).

Although sanitary and medical conditions in police station temporary holding facilities vary, in almost all cases these conditions are worse than those in the prisons. Some such jails are bare, overcrowded, and damp. Few have beds, washbasins, furniture, or utensils. Meals are normally unavailable; friends and relatives must bring detainees food and water. Cells rarely have sanitary facilities, and inmates sometimes are escorted by staff members outside the cells to use holes in the floor for toilets. Inmates generally sleep on a thin pallet on the concrete floor. The Brickdam lockup in Georgetown has poor sanitation and dangerous conditions. One cell without plumbing or other facilities typically holds up to 30 detainees and often is the site of violence between inmates. Although precinct jails are intended to serve only as pretrial holding areas, some suspects have been detained there as long as 4 years, waiting for the overburdened judicial system to act on their cases.

Conditions were generally adequate in the only women's prison, which is at New Amsterdam, in a facility that holds men and women in separate dormitory-type buildings. There are a number of vocational and educational courses, and a program of regular visits by a psychiatrist who provides counseling for female inmates has begun. The GHRA has urged that female inmates' responsibility for children should be recognized in terms of length of sentence and facilities for family contact. The East La Penitence police jail, where female prisoners are held until sentencing, was upgraded in 2000; sanitation improved, and piped water is provided for the inmates.

Following widespread criticism caused by the detention in 1999 of two boys (ages 8 and 11) with adult prisoners who mistreated them, police have been careful to place juvenile offenders in a fairly adequate separate facility. The Ruimveldt police station was the only facility holding juveniles between ages 14 and 17 years.

Prison officials were receptive to local and international NGO requests to enter and inspect prison facilities. The GHRA participates as a member of the prisons' visiting committee, which investigates prisoner complaints, inspects diets, reviews primary medical care services, and provides recommendations to prison authorities.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that the authorities generally respected in practice.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged. Bail is generally available, except in capital offense cases. In narcotics cases, magistrates have limited discretion in granting bail before trial and must remand persons convicted of such crimes into custody, even if an appeal is pending.

Lengthy pretrial detention remains a problem. The GHRA has asserted that prisoners are detained for as many as 3 or 4 years while awaiting trial; however, the authorities denied that delays were this long. During the year, prisoners protested lengthy trial delays (see Section 1.c.).

The Constitution prohibits forced exile, and it is not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, law enforcement officials and prominent lawyers questioned the independence of the judiciary and accused the Government of intervening in certain criminal and civil cases. In most human rights cases, the Government generally respects the independence of the judiciary.

The court system is composed of a high court (the Supreme Court of Judicature), an appeals court, and a system of magistrate courts. Magistrates are members of the civil service and are trained lawyers. The magistrate courts deal with both criminal and civil matters, and specially trained police officers serve as prosecutors in lower magistrate courts. The Ministry of Legal Affairs, headed by the Attorney General, is the principal legal advisor to the State. The Director of Public Prosecution is statutorily independent and can file legal charges against offenders. The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law. This right generally is respected in practice.

Delays in judicial proceedings are caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional alleged acts of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial. There were reports that police who serve as prosecutors in lower magistrate courts are reluctant to prosecute police accused of abuses (see Section 1.a.). There were allegations that police threatened a witness (see Sections 1.a. and 1.c.). The inefficiency of the judicial system undermines due process. Lengthy pretrial detention remains a problem (see Section 1.d.). In March 2000, the U.N. Human Rights Committee called on the Government to recruit competent part-time and temporary judges in order to deal with the backlog of cases. In September 2000, four additional judges were sworn in.

On June 21, Members of Parliament voted to amend the Constitution, incorporating a number of recommendations from the Constitution Reform Commission. Intended to strengthen the judiciary, the changes remove from executive control the appointment of judges and members of the Judicial Service Commission (JSC) from executive control, as well as the ability to extend the tenure of judges beyond the age of retirement. In addition, the bill grants the JSC power to appoint the Director and Deputy Director of Public Prosecutions, the Registrar and Deputy Registrar of the High Court, and the Registrar and Deputy Registrar of Deeds. The amendments also allow the President, on the advice of the JSC, to make temporary appointments

of judges to sit in magistrate courts and the High Court. The number of appointments is to depend on the outcome of an audit of pending cases.

Defendants are granted public trials, and appeals may be made to higher courts. Defendants are presumed innocent until found guilty. Cases in magistrate's courts are tried without jury; more serious cases are tried by jury in the High Court. Appeals of some murder cases may go on for several years. Trial postponements are granted routinely to both the defense and the prosecution. Programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts have had only a limited effect, and judicial staff still need further training in all areas. Although the law recognizes the right to legal counsel, in practice, with the exception of cases involving capital crimes, it has been limited to those who can afford to pay. There is no public defender system.

The Georgetown Legal Aid Clinic, with public and private support, provides advice to persons who cannot afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases in such matters (for example, assault as part of a divorce case). Defendants in murder cases who need a lawyer are assigned an attorney by the court. The Guyana Association of Women Lawyers provides free legal services for civil cases only.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the right of privacy; however, the authorities often infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were numerous reports of police officers searching homes without warrants, particularly in neighborhoods where narcotics trafficking is a problem.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Citizens openly criticize the Government and its policies.

The independent Stabroek News publishes daily, and a wide range of religious groups, political parties, and journalists publish a variety of privately owned weekly newspapers. The Government's daily newspaper, the Guyana Chronicle, covers a broad spectrum of political and nongovernmental groups. However, throughout the year, the Chronicle typically displayed a clear antiopposition bias.

While printed media flourished, a growing number of journalists charged the Government with failure to respect freedom of the electronic media. The Government owns and operates the country's sole radio station, which broadcasts on three frequencies. There are no private radio stations, and private interests continued to allege that the Government either denied or failed to respond to more than 20 requests for radio frequency authorizations. The Government maintained that it was unable to grant frequencies to private stations because there was no legislation governing their allocation. However, despite a similar lack of legislation to govern television frequencies, there are 12 independent television stations in addition to the government station.

In early March, the GHRA called on the media to set in place more effective forms of self-regulation and stated that without effective intervention from within or without, the misuse of television broadcasts would expand with negative consequences for society. The GHRA statement came during the election campaign when a number of television commentators made inflammatory comments that exacerbated political and racial tensions. The international donor community, which assisted with technical advice and some funding, urged the media before the elections to adopt a voluntary code of conduct to curb such excesses, but no such action was taken.

On May 14, the police arrested Ronald Waddell, opposition candidate and host of television program "University on 9," on two counts of sedition for inflammatory statements on the air.

On May 16, the police arrested Mark Benschop, host of television program "Straight Up," and charged him with sedition and incitement to commit murder. Police alleged that Benschop incited officers to murder the Police Commissioner by stating, "I am calling on all police officers to turn your weapons on Laurie Lewis."

The trials of both Waddell and Benschop were postponed; the DPP requested additional time to appoint a prosecutor. When the cases were brought to trial, the trial judge dismissed both cases.

A representative of Human Rights Watch criticized the arrests of the television hosts, asserting that this action violated freedom of press and speech. However, members of the press, including the Stabroek News, supported the charges.

On May 23, Prime Minister Samuel Hinds announced that the Government no longer would tolerate unregulated broadcasting, and that all television stations would be required to adhere to existing legislation and obtain an official license. The existing laws—the Post and Telegraph Act and Wireless Telegraphy Regulations—are to remain in effect until a Commission on Broadcasting develops new broadcasting legislation. Conditions for obtaining a license include assurances that stations will not broadcast any program likely to offend the public, incite racial hatred or crime, or lead to public disorder. The opposition strongly criticized the announcement, stating that enforcement of the deficient existing legislation was an attempt to censor broadcasting that is critical of the Government. Despite the controversy, 22 stations applied for broadcasting licenses, and the Government granted 15 licenses in December.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice; however, the police occasionally used force against demonstrators. In June police shot and killed one protester, and wounded three others, during a demonstration at a police station in Berbice (see Section 1.a.). In times of political unrest, such as after the March national elections, police used force against demonstrators, but only under provocation. The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting if he believes that it may provoke a breach of the peace. In cases of refusal, applicants may appeal to the Minister of Home Affairs, whose decision on the matter is final. After obtaining authorization, which generally is granted, political parties and other groups held public meetings and rallies throughout the country without hindrance.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country, and the Government generally respects this right in practice. Travel to Amerindian areas requires government permission, the result of a law dating from colonial times designed to protect indigenous people from exploitation. However, in practice most persons travel throughout these areas without regard to the formality of a permit. Citizens are free to travel abroad, to emigrate, and to return.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government does not have a formal policy on refugees or asylum and has not enacted model legislation prepared by the UNHCR. The issue of provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

Citizens enjoy this right and exercised it in free and fair elections held in March. There is a multiparty political system based on proportional representation. Voters indirectly elect the President to a 5-year term of office. Any citizen 18 years or older may register to vote.

The party that wins the most votes for parliament wins the presidency. A party's presidential candidate must be announced in advance of the election. The President appoints a cabinet and a prime minister who, with the President, exercise executive power. Citizens are free to join or support political parties of their choice. Since the party in power controls Parliament, the legislature typically provides only a limited check on the executive's power. In November 2000, the National Assembly amended the Representation of the People Act and the Constitution to permit the election of 25 of the 65 deputies from regional constituencies. Voters elect the other 40 from a national slate of nominees chosen by the parties from different sectors of society.

In December 1997, citizens voted to return the PPP/C to office and elected Janet Jagan, widow of former president Cheddi Jagan, as President, defeating the PNC, which is the main opposition party. As a result of opposition charges of election fraud that international observers considered to be unfounded, the ruling party entered into an agreement brokered by officials from other CARICOM nations to hold new elections after 3 years instead of 5 years as required by the Constitution. In 1998 a court began hearing testimony in a civil suit filed by the PNC in support

of its allegation that the 1997 election was rigged. On January 15, Justice Claudette Singh ruled that, although irregularities took place, they were not sufficient to invalidate the election. However, on a side petition, she found that the 1997 national election was "vitiating" due to the use of voter identification cards, which were not provided for in the Constitution. On January 26, Justice Singh issued a ruling that allowed the incumbent Government to remain in office until the national election scheduled for March 19.

In 1999 Finance Minister Bharrat Jagdeo had succeeded to the presidency following the resignation of Janet Jagan for health reasons. The CARICOM-brokered agreement also called for constitutional reform of the electoral process. In December 2000, Parliament passed a Constitutional Amendment Act that imposed a 7-year residence requirement on candidates for the presidency and sets a limit of two terms. In addition, the act removed a clause that made the President immune from prosecution, and it limited to four the number of ministers who need not be elected Members of Parliament.

On March 19, citizens voted in a generally free and fair election to sustain the PPP/C in office, defeating the PNC. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. However, the opposition called for the courts to declare the election unconstitutional and illegal, which delayed Jagdeo's swearing in until March 31.

In response to allegations of an unconstitutional electoral process, the Guyana Elections Commission (GECOM) commissioned a review and audit of the March 19 election, conducted by an eight-member team headed by a representative of the Institute for Democracy and Electoral Assistance (IDEA). The team investigated voter registration, the production of identification cards, staffing of polling stations, operational and contingency planning, the counting of votes, and the declaration of election results. As part of the review, the team conducted detailed consultations with political parties, representatives of civil society, and members of GECOM between June 25 and 29. The results, published in mid-August, stated that IDEA was unable to find any evidence of deliberate manipulation or electoral fraud despite several procedural errors and system failures that the audit examined in some detail. The report found no evidence of a conspiracy or corruption to manipulate election systems or the election results, as the opposition had alleged.

Guyana is a racially divided society in which the political party structure reflects the polarization of the main ethnic groups. The two major parties (the PPP and the PNC) are formed largely by Indo-Guyanese and Afro-Guyanese, respectively.

There are no legal impediments to the participation of women or minorities in the political process, but the percentage of women and minorities in government and politics does not correspond to their percentage of the population. The December 2000 constitutional amendments also required that one-third of the parliamentary candidates be female. After the March elections, the 65-member Parliament included 20 women and 4 Amerindians, representing both major parties. The 20-person Cabinet includes 4 women, and the Chancellor of the Judiciary is a woman.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The authorities did not interfere with the activities of human rights groups. The GHRA, the most active local human rights group, functions without government interference. Trade unions, professional organizations, various ethnic groups, and churches participate in the GHRA. It issues periodic press releases and normally publishes an annual report on human rights. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports.

In June Parliament approved an act that provides for the establishment of the Guyana Human Rights Commission (HRC). The HRC is charged with promoting the observance and respect for rights outlined in the Constitution, and protecting and investigating violations of these rights and any other law relating to equality of opportunity and treatment. The HRC is comprised of a Chairperson and the four chairpersons of the Women's, Children, Indigenous, and Ethnic Relations Commissions in the Parliament. These commissions do not have a staff or any budget for operations. The GHRA issued a press release in response to the announcement of the newly established HRC, calling the Commissions Act a "lost opportunity," and criticizing the haste with which the act was developed and implemented. It further complained about the lack of members specifically charged with observing, protecting and investigating fundamental human rights and freedoms, and the lack of authority given the commission.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin; however, the Government does not always enforce these provisions effectively.

Women.—Violence against women, including domestic violence, is widespread, and NGO's report that domestic violence crosses racial and socioeconomic lines. Despite efforts by NGO's and the DPP to sensitize police officers to domestic violence, the police often are hesitant to interfere in cases of domestic disputes. According to press reports, domestic violence resulted in the deaths of six women, four children, and one man between January and September, and the final number for the year was likely to be higher.

The Domestic Violence Act defines domestic violence, establishes it as a crime, and gives women the right to seek prompt protection. Magistrates may issue interim protection orders when a victim of abuse, a police officer, or a social worker fills out an application for protection. A magistrate then evaluates the case and decides whether to replace interim orders with permanent orders. The act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibit abusers from being anywhere that the applicant lives, works, visits, or attends school. If protective orders are violated, the abuser may be fined up to \$54 (G\$10,000) and imprisoned for up to 12 months. However, this legislation frequently was not enforced. Occupation orders allow the victim and any children to remain in a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders require an abuser to leave a rented dwelling and to continue to pay some or all of the rent. The GHRA has criticized the structure of the Domestic Violence Act, stating that the law cannot be implemented until appointments have been made to the Women's Affairs Bureau. In addition, the GHRA reports that the forms needed to request court orders are printed infrequently and rarely available to the public.

In March 2000, the U.N. Human Rights Committee criticized the lack of information about the effect of the Domestic Violence Act in reducing the level of violence against women. The Committee called for training police and other law enforcement personnel in the importance of ensuring that women who are victims of violence are accorded equal protection and that preventive and punitive measures are enforced. The Government held 2-week training seminars for police officers to sensitize them to the issues and advise them about procedures. The officers who received training are to conduct outreach for their fellow officers.

Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, focuses on societal reeducation in order to sensitize the public to domestic violence. By February H&S had counseled 3,872 persons since it began offering counseling services in November 1995. H&S reported that 74.5 percent of its cases involved spousal abuse.

Rape, particularly of girls and young women, is a serious problem but infrequently reported or prosecuted. Health professionals and NGO's also reported a high incidence of incest. Lawyers say that while more victims are reporting these crimes to the authorities, there still is a social stigma applied to the victim for doing so. An estimated 5 percent of cases reported to H&S were rape cases; the vast majority of these—80 percent—were reported by victims age 17 and under.

Prostitution is illegal; however, it does occur, and it received increased public attention due to the high incidence of HIV/AIDS among prostitutes.

There is no legal protection against sexual harassment in the workplace. The law prohibits dismissal on the grounds of pregnancy, and dismissal on such grounds does not occur in practice. The Women's Affairs Bureau of the Ministry of Labor monitors the legal rights of women. The Women's Leadership Institute, a collaborative effort between the Government and the UNDP, seeks through education and training to facilitate greater women's participation in government and the private sector. The center plans to train an average of 350 women annually on issues such as women's rights, status of women, violence against women, and leadership development. In September 100 women began the first phase of the program, which involves 15 hours per week of training for 4 months.

The 1997 Antidiscrimination Act builds upon the provisions of the 1990 Equal Rights Act. The two laws provide a strengthened framework under which women and minorities may seek redress for discriminatory acts or practices. However, no case ever has been tried under the Equal Rights Act, and critics of the Antidiscrimination Act claim that it is unlikely to be effective since the act places enforcement responsibilities on the overburdened Chief Labor Officer.

The law protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had been a housewife. Divorce by con-

sent remains illegal. The courts may overturn a husband's will in the event that it does not provide for his wife, as long as she was dependent on him for financial support.

Children.—Children are affected more severely by the country's poverty than any other group. One-third of the population is under 18 years of age and, although the Government provides free education through secondary school (it is compulsory until age 14), the severe deterioration of the public education and health care systems has limited children's future prospects. The public health system is inadequate, and private health care is unaffordable for many children. Children often do not attend school because their families need them to contribute to the household by working or providing child care for siblings or younger relatives (see Section 6.d.).

Concern continues to rise over the effects of domestic violence on children. It is unclear how many deaths from child abuse take place, since law enforcement officials believe that the vast majority of criminal child abuse cases are unreported. In June the Welfare Section of the Georgetown Education Department stated that reports of physical and sexual abuse of children were on the rise, with an average of two to three cases per month in the capital city alone. The NGO H&S reported that 6.5 percent of its cases between November 1995 and February involved child abuse. There are no law enforcement investigative procedures in place to determine if abuse or parental incapacity were the true causes of death in some cases of the 400 children under the age of 5 who die each year, deaths that usually are ascribed to malnutrition or disease. Media reports of rape and incest further indicated that violence against children is a significant problem. The Domestic Violence Act allows police officers or social workers to file an application on behalf of an abused child. However, there is a lack of social services or trained experts to assist children fleeing sexual, physical, or emotional abuse. Many children suffer from neglect or abandonment, particularly when from 1 to 2 percent of the adult population emigrates each year, often leaving children behind.

UNICEF has criticized the practice in which girls trade sexual favors for money, gifts, or help in employment or higher education, a practice sometimes condoned by their parents yet obscured by cultural norms. In a related practice, parents demand monetary compensation following the rape of a teenage daughter.

In June one student suffered a broken collar bone and another a broken elbow as a result of flogging by their teachers, a form of corporal punishment in public schools. Both teachers involved in the incidents returned to work pending investigations. The Ministry of Education responded to these incidents with a 30-point program intended to phase out corporal punishment in schools.

Persons with Disabilities.—There is no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities makes it very difficult to employ persons with disabilities outside their homes. In 1997 Parliament passed a law establishing a council for persons with disabilities, which functioned throughout the year. There are several special schools and training centers for persons with disabilities, but the facilities lack trained staff and are in disrepair.

Indigenous People.—The Amerindian population, which consists of nine tribal groups, constitutes an estimated 8 percent of the population. Most live in reservations and villages in remote parts of the interior. Their standard of living is much lower than that of most citizens and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources is limited. Access to education and health care in Amerindian communities is limited severely.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. Under the act, the Government may determine who is an Amerindian and what is an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian may accept formal employment; however, these provisions are not enforced. Both Amerindian individuals and groups remain free to criticize the Government. In 1998 the Ministry of Amerindian Affairs admitted that the Amerindian Act was antiquated and expressed a commitment to update it, although it has taken no action to do so.

The Government has long maintained that it is committed to demarcating lands that traditionally have been the home of Amerindians. However, the Government holds title to almost all the country's land and is free to act as it wishes without consultation. The Government identified a total of 75 villages, and reported that it successfully demarcated the lands of 11 Amerindian communities in 1998. The Ministry of Amerindian Affairs claimed that, in close consultation with Amerindian leaders, it would demarcate a total of 40 additional villages by the end of 1999; however, while a handful of village leaders have accepted these new titles, most leaders

rejected the demarcations. Local Amerindian NGO's regarded government consultations as mere public relations exercises and demarcation as a means of confining Amerindian communities so that the remaining areas that Amerindians considered to be their land could be offered as concessions to miners and loggers. (Most of the titles to demarcated land were granted decades ago under the Amerindian Act and did not allow for the growth of Amerindian communities.) The Amerindian NGO's claim that Amerindian leaders were not consulted properly and were pressured into uninformed decisions. The Government maintained that it would consider granting additional land rights to those communities that agreed to have their lands demarcated in 1999, but it has not yet taken action to do so.

In March 2000, the U.N. Human Rights Committee expressed regret that the Government had not yet amended the Amerindian Act and expressed concern that Amerindians did not enjoy fully the right to equality before the law. The Committee especially was concerned that the right of Amerindians to enjoy their own culture was threatened by logging, mining, and delays in the demarcation of their traditional lands, and that in some cases insufficient land is demarcated to enable them to pursue their traditional economic activities.

National/Racial/Ethnic Minorities.—Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin, continued to influence society and political life. Racial grouping of social and political organizations has polarized society along ethnic lines, and discrimination and exclusion continue to occur. Members of both the largely Indo-Guyanese PPP and the largely Afro-Guyanese PNC engaged in rhetorical and propaganda attacks that fueled racial tensions.

The civil service and defense and police forces overwhelmingly are staffed by Afro-Guyanese. Recruitment efforts targeted at Indo-Guyanese candidates for the uniformed services generally have met with an unenthusiastic response, with most qualified Indo-Guyanese candidates opting for a business or professional career over military, police, or public service. However, in the aftermath of the 1997 and 2001 national elections, the Government continued efforts to recruit Indo-Guyanese for the security forces. The Government also sponsored various forums for discussion of racial problems and to promote inclusion, and it supports the work of NGO's that deal with these concerns.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions. The Trade Unions Recognition Law, which requires employers to recognize the union chosen by a majority of the workers, came into effect in 1999; however, implementation has been slow. The Trade Unions Recognition Board, created by this act, has not granted recognition to any new unions; it issued recommendations to recertify existing unions that previously had represented workers, but the process was delayed.

Approximately 32 percent of the work force is unionized. Most union members work in the public sector and in state-owned enterprises. Organized labor freely associates in the major national federation, the Guyana Trades Union Congress (TUC), which is composed of 22 unions. There is a tradition of close ties between the trade union movement and political parties. Historically, the two major political parties have wielded significant influence over the leadership of several unions, and trade union officials often served in dual roles as party officials. This arrangement occasionally led to overt politicization of labor issues. For example, efforts to negotiate a new contract between the Government and the Guyana Public Service Union (GPSU) have been deadlocked amid allegations of bad faith that have distinct political and racial overtones. The GPSU is largely Afro-Guyanese and the governing PPP is largely Indo-Guyanese.

The law provides workers with the right to strike. Strikes may be declared illegal if the union leadership did not approve them, or they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place. There is no law prohibiting retaliation against strikers or antiunion discrimination by employers. However, this principle always is included in the terms of resumption after a strike. The Trade Unions Recognition Law defines and places limits on the retaliatory actions employers may take against strikers. Arbitration rulings, when agreed to by the contending parties, are legally enforceable.

In May 2000, workers at the Forestry Commission went on strike. They were attempting to obtain recognition of their union, but 10 union branch chiefs were dismissed and have not been paid the severance package due to them.

In 1999 following a civil service strike, an arbitration panel awarded government workers an across-the-board 31 percent pay increase for 1999, an additional 26 percent increase in 2000, and step increases. While the Government has paid the annual increases, it has not agreed to implement step increases; pay increases must be negotiated annually. In August 2000, the GPSU proposed a minimum wage increase of 35 percent for the following year and 28 percent for 2002. In July the GPSU accused the Public Service Management (PSM) of delaying the wage increase negotiations, accusations the PSM denied.

Unions and their federations freely maintain relations with recognized international trade union and professional groups. All three of the major international trade union federations have affiliates in the country.

b. The Right to Organize and Bargain Collectively.—Public and private sector employees possess and utilize the right to organize and to bargain collectively. The Ministry of Labor certifies all collective bargaining agreements and has never refused to do so. Individual unions directly negotiate collective bargaining status, pursuant to the 1993 repeal of a regulation that required that all collective bargaining be negotiated through the GTUC. Unions are dissatisfied with a provision that grants the Ministry of Finance veto power over wage contracts negotiated by other ministries. The Chief Labor Officer and the staff of the Ministry of Labor provide consultation, enforcement, and conciliation services.

There is no law prohibiting antiunion discrimination by employers.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, and there is no indication that it occurs. The Government prohibits forced or bonded labor by children and generally enforces this prohibition effectively.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Factories Act and the Employment of Young Persons and Children Act set out minimum age requirements for employment of children; however, according to UNICEF, child labor in the informal sector is a problem and it is common to see very young children engaged in street trading in the capital. Legally, no person under age 14 may be employed in any industrial undertaking and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family are employed.

On January 15, the Government ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor. While the Ministry of Labor recognizes that child labor exists in the informal sector, it does not employ sufficient inspectors to enforce existing laws effectively. The practice of teenage girls trading sexual favors for money is a problem (see Section 5). The Government prohibits forced or bonded labor by children and generally enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work.—The Labor Act and the Wages Councils Act allow the Labor Minister to set minimum wages for various categories of private employers. However, there is no legislated private sector minimum wage. As a result of the civil service arbitration ruling in 1999 (see Section 6.a.), the minimum public sector wage increased to \$104 (G\$19,000) per month. Although enforcement mechanisms exist, it is difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often are paid less than what is required legally. The legal minimum wage for the public sector is insufficient to provide a decent standard of living for a worker and family.

The Shops Act and the Factories Act set hours of employment, which vary by industry and sector. In general work in excess of an 8-hour day or a 44-hour week requires payment of an overtime rate. However, if the initial contract stipulates a 48-hour workweek, then the overtime rate applies only for hours worked in excess of 48 hours. The law does not require at least a 24-hour rest period each week.

The Factories Act also establishes workplace safety and health standards. The Ministry of Labor implemented programs in the workplace to promote HIV/AIDS awareness and provide information on related health issues in order to combat discrimination. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. As with its other responsibilities, inadequate resources prevented the Ministry from effectively carrying out this function. Workers cannot remove themselves from dangerous work situations without jeopardizing continued employment.

f. Trafficking in Persons.—There are no laws that specifically prohibit trafficking in persons, and there were occasional reports of trafficking in persons of Chinese and South Asian origin, who would immigrate illegally to the United States under

conditions amounting to debt bondage. Persons providing fraudulent documents for the purpose of facilitating illegal immigration can be charged with obtaining money under false pretenses, which carries a small fine and a 6-month prison sentence. Some fraud cases were prosecuted during the year.

HAITI

Haiti is a republic with an elected president and a bicameral legislature. The 1987 Constitution remains in force, but many of its provisions are not respected in practice. The political impasse and political violence stemming from controversial results of May 2000 legislative and local elections continued during the year. In May 2000, the Provisional Electoral Council (CEP) manipulated the results of the election to ensure that Fanmi Lavalas (FL) maintained control of the Senate. The opposition parties boycotted July 2000 runoff elections and the November 2000 presidential elections, in which Jean-Bertrand Aristide was elected with extremely low voter turnout. President Aristide was sworn in on February 7. During the first half of the year, the international community, including the Organization of American States (OAS), and the country's civil society mediated discussions between the FL and the opposition Democratic Convergence; however, negotiations were not successful and talks were suspended in July following armed attacks on several police stations by unidentified gunmen. On December 17, an unknown number of unidentified gunmen attacked the National Palace in Port-au-Prince; 8 persons reportedly died and 15 persons were injured. Following the attack, progovernment groups attacked opposition members' offices and homes; one opposition member was killed. The 1987 Constitution provides for an independent judiciary; however, it is not independent in practice and remained largely weak and corrupt, as well as subject to interference by the executive and legislative branches.

The Government established the Haitian National Police (HNP) in 1995 as the sole security force in the country after disbanding the military (the FAd'H). Despite substantive international assistance and some initial progress, the HNP remains a fledgling institution with inadequate resources. Since President Aristide assumed power in February, he has filled many key positions with loyalists who often lack experience, training, and credibility. The HNP has between 2,500 and 3,500 officers. Although new cadets are being trained, they are chosen based on political and personal favoritism. Allegations of corruption, incompetence, and narcotics trafficking affect all levels of the HNP. Nevertheless, a cadre of officers trained by U.S., French, and Canadian authorities remains and are committed to protect and serve the country. The HNP has a variety of specialized units, including a crisis response unit (SWAT); a crowd control unit (CIMO) serving Port-au-Prince and the Western department; crowd control units (UDMO's) serving each of the remaining eight departments; a presidential and security unit; a small Coast Guard unit; and a Special Investigative Unit (SIU), formed to investigate high-profile political killings. The SIU is no longer well equipped and inexperienced; however, it lacks a mandate from the country's political leaders and is largely defunct. Some members of local government councils (CASEC's) exercised arrest authority without legal sanction. Some members of the HNP committed human rights abuses.

The country has an estimated population of 8 million and is extremely poor, with a per capita income of approximately \$500. Estimates of gross domestic product (GDP) per capita are unreliable because they do not include fully significant remittances from the more than 1 million Haitians living abroad, or income from informal sector activities that constitute an estimated 70 percent of actual economic activity. The country has a market-based economy with state enterprises controlling utilities. Aside from the sale of two previously closed parastatals, the privatization of state-owned enterprises has ceased. A small elite controls much of the country's wealth. Approximately two-thirds of the population work in subsistence agriculture, earn less than the average income, and live in extreme poverty. A small part of the urban labor force (approximately 30,000 persons) works in the industrial and assembly sectors, with an equal number in government or service sector employment. Assembled goods, textiles, leather goods, handicrafts, and electronics are sources of limited export revenue and employment. Other important exports are mangoes and coffee. The country is heavily dependent on international assistance and remittances and imports 60 percent of its food. The economic situation worsened significantly during the year. Political instability, deficit financing, depreciation of the local currency (the gourde), and the world fuel price increase contributed to the country's severe economic problems. Episodes of sharp gourde depreciation in September and October, combined with the fuel price increase, resulted in high costs for import-depend-

ent business enterprises, and prices for food and consumer goods remained high. The International Monetary Fund estimated inflation at 18 percent and a growth rate of just over 1 percent.

The Government continued to commit serious abuses during the year, and its generally poor human rights record worsened. There were credible reports of extrajudicial killings by members of the HNP. Unresolved attacks on July 28 against police stations in Port-au-Prince and the Central Plateau province led to a government crackdown against members of the former military and the political opposition. Police and local officials illegally arrested at least 50 persons; police beat some of those arrested. One opposition party's office was raided, and police arrested its members. Spouses of wanted persons also were arrested. Most of those arrested arbitrarily in August and September were released by year's end. The Government made no progress in solving prominent killings that took place after the FL regained power in 1994. The 2000 killing of journalist Jean Dominique remained unsolved, although a judicial investigation continues. FL Senator and president of the Senate Commission on Public Security Dany Toussaint is a suspect in the Dominique murder. Police officers used excessive—and sometimes deadly—force in making arrests or controlling demonstrations and rarely were punished for such acts. Prison conditions remained very poor, although there were some improvements. Prisoners with valid release orders continued to be held in defiance of these orders. Former military president Prosper Avril remains in prison despite a June 12 release order. Criminal deportees who already served full sentences in other countries continue to be held for varying amounts of preventive detention. In June President Aristide, reacting to a sharp increase in crime and insecurity, announced a policy of “zero tolerance,” urging police and citizens to bypass the judicial system if they caught alleged perpetrators in the commission of a crime. Mobs were subsequently responsible for at least nine killings.

FL local officials committed increasing numbers of serious human rights abuses. The mayors of Maissade and Hinche frequently beat and arbitrarily arrested human rights activists, former military, labor activists, and opposition members. In December President Aristide removed the Hinche mayor from office. Most media practice some form of self-censorship, although they are frequently critical of the Government. In December several radio stations closed down temporarily due to intimidation and threats. More than 20 journalists fled the country and others reported that they received threats. Political violence continued. Violence and societal discrimination against women, and abuse of children remain problems. The Parliament passed a law outlawing corporal punishment against children. Child labor and internal trafficking of children were problems.

The Penitentiary Administration Management (DAP), through international donor assistance, made important strides in decreasing cases of malnutrition among prisoners and in improving conditions for its prisoners. Justice Minister Gary Lissade opened a bureau for citizens to lodge complaints against judges. He also began to address seriously the problem of inadequate judicial attention to pretrial detainees, some of whom are imprisoned for years before their cases come to trial. The Justice Minister's efforts have resulted in the release of more than 100 prisoners from pre-trial detention.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Other Unlawful Deprivation of Life.—There were credible reports of extrajudicial killings by members of the HNP. Human rights groups also charged the HNP with numerous extrajudicial killings following a June announcement by President Aristide that suspected criminals would be met with “zero tolerance.”

On October 11, police assigned to the Port-au-Prince slum of Cite Soleil killed two persons, including 16-year-old Mackenson Fleurimond. The police also beat a radio journalist who was investigating Fleurimond's death (see Section 2.a.). The police action precipitated several days of riots and clashes with police. No arrests or investigations were made in this case.

On July 28, approximately six unknown gunmen dressed in FAdH uniforms entered the National Police Academy in Petionville. They killed three policemen, including Police Academy Administrator Jean Eddy Cantave and held several police officers hostage for 5 hours. Hours later, either the same or other gunmen attempted to take over police stations in the Central Plateau towns of Mirebalais, Hinche, and Belladere; another policeman was killed. In Belladere gunmen took control of the police station and broadcast a call for former military to take up arms against the Government. Several former members of the military gathered at the police station; the gunmen subsequently disappeared.

Following the attacks, SWAT and local police detained and interrogated more than 30 local residents (see Section 1.d.).

During one such detention on July 28, police killed Wilner Jean-Louis, a former member of the military and member of the Democratic Convergence (see Section 1.c.). The police claimed that they killed him in self-defense. Following Jean-Louis's death, police and local officials called a justice of the peace to the scene but then prohibited him from interviewing certain witnesses. Police detained some witnesses. There was no government inquiry or investigation into the killing. On July 28, local residents found the body of an unidentified man, wearing a FAd'H uniform, floating in the Inquite River near Belladere. There were no government inquiries or investigations into the death.

There were politically motivated killings during the year (see Section 3). In March one demonstrator was killed in a clash between the FL and the opposition (see Section 3). The opposition Konvansyon Inite Demokratik (KID) party stated that police killed several of its members during the months of June and July. There was no independent confirmation of these claims.

On November 29, political demonstrations in the city of St. Marc left one person killed and several wounded. The violence started when pro-FL supporters attacked an opposition demonstration. There were no arrests or investigations.

On December 3, members of a progovernment popular organization killed and mutilated the body of Brignol Lindor, a journalist in Petit-Goave (See Section 2.a.).

On December 17, gunmen attacked the National Palace in Port-au-Prince in an early morning raid. A government-issued report claimed that the gunmen were members of the FAd'H and that they killed 8 persons and injured 15 others. After the attack on the Palace, progovernment groups attacked and burned the offices and homes of four opposition political parties, all of whom are members of the Democratic Convergence coalition (see Section 3). Progovernment groups also attacked opposition members in the provinces. One member of the MOCHRENA political party was killed in Gonaives. Several radio stations closed down during the day because of intimidation and threats. More than 20 journalists fled the country and others reported that they received threats (see Section 2.a.).

In November prisoners at the National Penitentiary rioted after prison guards killed a prisoner. Inmates claimed that several prisoners were killed during the riot, but these reports were not confirmed (see Section 1.c.).

Judges assigned to politically sensitive cases complained about interference by the executive branch of the Government (see Section 1.e.).

On March 26, a civil court ruled that approximately \$35 million (875 million gourdes) should be paid to the families of the 11 civilians killed by police officers in 1999 in the Port-au-Prince suburb of Carrefour-Feuilles. Half is to be paid by the Government and another half by the four policemen found guilty in a criminal trial in September 2000.

There was little action on the investigation into the 1993 massacre of residents of Cite Soleil, a Port-au-Prince slum, by members of the FAd'H and their allied paramilitary group, the Revolutionary Front for the Advancement and Progress of Haiti (FRAPH). In 1999 justice officials had issued 23 arrest warrants. In the summer of 2000, the Ministry of Justice had appointed a new investigating judge, and the investigation was ongoing at year's end.

The April 2000 killing of popular Radio Haiti-Inter host and journalist Jean Leopold Dominique, known for his criticism of the Government and of former coup leaders, remained unsolved. A security guard also was killed in the incident. On June 8, Investigating Judge Claudy Gassant submitted his report to the Port-au-Prince public prosecutor. After 2 weeks of studying the report, the prosecutor returned it to the office of the Investigating Judge with additional questions. At that time, Gassant was out of the country and announced that he would not return due to unspecified threats against his life. National and international human rights organizations urged the Government to take all necessary steps to protect Gassant. The Government repeatedly announced its willingness to provide all appropriate protection, and Gassant returned in late June. He continued the investigation and in September asked the Senate to lift the immunity of Senator Dany Toussaint, whom he described as a suspect. The Senate had not responded by year's end. Several journalists reported threats that appeared to be due to their association with Dominique (see Section 2.a.).

On August 27, the National Coalition for Haitian Rights (NCHR) wrote an open letter to Justice Minister Lissade. The letter noted the lack of progress in investigating several high-profile killings: Father Jean Marie Vincent (killed August 28, 1994), Chenel Gracien (killed May 5, 1998), Jean Pierre Louis (killed August 3, 1998), Senator Yvon Toussaint (killed March 1, 1999), Jean Lamy (killed October

8, 1999), Jean Dominique (killed April 3, 2000), and Amos Jeannot (killed September 6, 2000).

Vigilante killings are common. Historically, extrajudicial killings often take the form of vigilante actions. In previous years, such incidents occurred without official complicity, especially in rural areas where there is little or no police presence. The populace routinely resorts to vigilante actions in the absence of reliable means of legal redress. On February 8, in the northern town of Pilate, police were holding eight suspected criminals at the local police station when an enraged crowd stormed the police station and stoned the prisoners to death. The crowd later burned four bodies. Local police tried to save the suspects but were overrun by the crowd. In April a gang killed 10 motorists traveling on a Port-au-Prince road. In response, mobs from the adjacent slum of Cite Soleil began searching for gang members. At least 18 persons were killed by the ensuing mob violence. In mid-April a mob attacked two radio transmitters and killed a guard (see Section 2.a.). Accusations of sorcery, particularly in rural areas, have resulted in mob violence and killings (see Section 2.c.).

On June 20, in response to a significant increase in violet crime, President Aristide called publicly for "zero tolerance" of criminals. In his address, he called on police and citizens to bypass the judicial system if they caught persons in the act of committing a crime. Human rights organizations such as the National Coalition for Haitian Rights (NCHR) and the Platform of Haitian Human Rights Organizations criticized this address as opening the door to summary executions of suspected criminals and others by the population and by the police. Opposition groups also were critical and cited fear that they could be targeted by police. On June 21, several inhabitants of the town of Cabaret burned alive three suspected thieves. The media reported that they were following the "zero tolerance" order given by President Aristide. In reaction to domestic and international calls to clarify his remarks, on June 25, President Aristide said that he had been misinterpreted and that police and citizens should not use extrajudicial methods to judge and punish suspected criminals. Nevertheless, he repeated his call for "zero tolerance," and vigilantism continued.

On June 27, inhabitants of the village of Latiboliere, near the town of Jeremie, decapitated a suspected bandit.

On July 9, a group of persons in the northern city of Port-de-Paix caught two young men in the act of robbery. They killed the two men and put signs with the words "zero tolerance" on their bodies.

On July 11, local residents of the villages of Sarasin and Boucan Carre, near the town of Mirebalais, killed two suspected criminals and burned their bodies. The men had fled to the two villages after the beginning of the "zero tolerance" crackdown by police.

On July 18, local residents of the village of Chabanne, near the town of Petit-Goave, killed a young man called Mondesir. Mondesir had allegedly stolen \$80 (2,000 gourdes) from a fellow passenger on public transportation. After some verbal pressure by local residents, Mondesir returned the money but subsequently was killed.

Neither the police nor the judiciary investigated or arrested anyone in connection with these killings.

In late June, a coalition of national human rights organizations published a report on the June 14 massacre in the Port-au-Prince slum of Fort Mercredi. According to their investigations, residents of Fort Mercredi and the adjacent area of Grande Ravine had longstanding disputes over land. In early June, a gang residing in Grande Ravine began to threaten residents of Fort Mercredi. On June 14, the residents killed two of the gang members. In the evening, a gang led by Felix Bienaime "Don Fefe," the director of the Port-au-Prince cemetery and a reputed gang leader with FL connections, entered Fort Mercredi and began to loot, burn houses, and kill residents. The Don Fefe gang killed 13 persons. They burned some alive, decapitated others, and mutilated the bodies. They injured 19 persons and destroyed more than 135 houses. The police response was limited to collecting corpses. The following week, President Aristide invited residents of both Fort Mercredi and Grande Ravine to the National Palace. They signed a joint press statement saying their conflict was over. Neither the judiciary nor the police questioned or arrested anyone in connection with the massacre.

On September 10, a known gang leader with FL connections, Ronald "Cadavre" Camille, argued with Fritzner Beaubrun, a Lavalas sympathizer, outside the Legislative Palace. Camille shot Beaubrun and then left the scene. Beaubrun died on September 11. Although there is an outstanding warrant in the Beaubrun case, Camille has never been arrested or prosecuted for either of these murders. In 2001

alone, three arrest warrants were issued against Camille but he has never been arrested. He reportedly has been seen in public since the latest arrest warrant.

On November 2–4, violence in the Port-au-Prince slum of La Saline led to 4 deaths, 17 injuries, and the destruction of hundreds of homes. The violence was blamed on gangs led by Ronald Camille and his brother Franco Camille, also a gangster with connections to the Government. There were no investigations or arrests following the violence.

b. Disappearance.—There were no reports of politically motivated disappearances.

In 1999 recent skeletal human remains were found at Titanyen (near Croix des Missions), an area that often served as a dumping ground for bodies of victims of political killings during the Duvalier and military eras. The HNP's forensic unit removed the remains with the assistance of foreign experts. Preliminary findings linked some of the remains with a 1999 incident in which HNP officers allegedly arrested eight teenage associates of the gang leader Hypolite Elysee, whom HNP agents killed in April 1999. Despite the efforts of their families to find them, the youths never were located. The HNP opened an investigation into the case in June 2000. The investigation remains open, but there has been no progress.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.—The 1987 Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces continue to violate these provisions. Police officers used excessive—and sometimes deadly—force in making arrests or controlling demonstrations and rarely were punished for such acts (see Section 1.a.). Eyewitnesses accused specialized CIMO police units of beating and otherwise terrorizing men, women, and children in numerous incidents, including during the National Penitentiary prison riot on November 15, and during November and December protests in the towns of Petit-Goave and Gonaives. Torture and other forms of abuse are pervasive. Police frequently beat suspects.

Police mistreatment of suspects at the time of arrest and during detention remains common in all parts of the country. Beating with fists, sticks, and belts is the most common form of abuse. However, in previous years, international organizations have documented other forms of mistreatment, such as burning with cigarettes, choking, hooding, and “kalot marassa” (severe boxing of the ears, which can result in eardrum damage). Persons who reported such abuse often had visible injuries consistent with the alleged maltreatment. There were also isolated allegations of torture by electric shock. Mistreatment also takes the form of withholding medical treatment from injured jail inmates.

The Government's record of disciplining police officers implicated in these offenses is inconsistent. Police almost never are prosecuted for the abuse of detainees. More often the HNP simply fires officers guilty of flagrant abuses. More than 800 officers have been removed since 1996; however, many were rehired during the year. In February President Aristide appointed a new Inspector General of the HNP; however, he has no law enforcement experience. There are some HNP officers in prison for other offenses, although no exact figures were available at year's end.

On March 26, opposition members held a peaceful demonstration in Petit-Goave. After the demonstration finished, a member of the mayor's security force fired at an opposition member who was walking by the mayor's office. The gunman wounded five persons. Police arrived and exchanged fire with members of the security force. No action was taken against the gunman.

CIMO routinely was accused of using excessive force against demonstrators (see Section 2.b.).

Locally elected officials allied with the FL increasingly exercised unauthorized law enforcement functions. For example, the mayors of Hinche, Maissade, Miragoane, and Petit Goave employ small paramilitary groups loyal only to them. These groups use a number of coercive methods, including torture, property damage, and theft, to victimize and control the population. They are usually better armed than local police. In rural areas, members and agents of CASEC's (administrative councils of communal sections) illegally assume a law enforcement role in the absence of a regular police presence. These locally elected officials often abuse citizens because of perceived disloyalty to political parties. They also use their illegal law enforcement positions to embezzle and to confiscate property.

In July 2000, Maissade mayor Willot Joseph and Hinche mayor Joseph Dongot participated in the round-up and beating of seven local opposition members who were imprisoned in Hinche for allegedly setting houses on fire. In late March, the two mayors severely beat two local judges who were investigating the mayors' actions (see Section 1.e.). On April 30, Mayor Joseph arrested and physically abused a union member (see Section 6.a.).

Mayor Dongot also was active in the crackdown on the opposition following the events of July 28. Dongot, police, and other local officials illegally arrested seven persons and shot and killed Wilner Jean-Louis (see Section 1.a.). In December President Aristide removed Mayor Dongot from office. However, preliminary reports from the Central Plateau indicate that his replacement also may be involved in illegal activities.

In July Marino Etienne filed a criminal complaint against former general and President of the military government from 1988–1990, Prosper Avril, who was detained on another charge (see Section 1.d.). The complaint is based on Avril's role in the 1990 "Toussaint affair," in which members of Avril's presidential guard tortured six dissidents, including Etienne and current opposition leaders Evans Paul and Serge Gilles. Avril remained in prison, despite the original and still-valid order for his release. The prosecuting judge assigned to investigate the criminal complaint has not issued any timetable for a trial.

There were reports that the police beat journalists during the year (see Section 2.a.).

FL members also attacked union members (see section 6.a.).

Prison conditions remained very poor. The Penitentiary Administration Management (DAP), with the support of the International Committee of the Red Cross (ICRC) and international donor countries, improved prison conditions somewhat during the year. However, prisoners and detainees continued to suffer from a lack of basic hygiene, poor quality health care, and in some facilities, 24-hour confinement. Since 6 judges began working on cases at the National Penitentiary during the summer (see Section 1.d.), the prison's population decreased from 2,070 to 1,899; the overall prison population decreased from 3,809 to 3,610 persons.

Overcrowding often prevents the strict separation of convicts from those in pre-trial detention or violent from nonviolent prisoners. Many prisoners were held in police holding cells, particularly in the provinces. The National Penitentiary is the only prison originally constructed for use as a prison. All other prisons are former police holding cells.

International human rights observers report, and prison officials admit, that there are instances of abuse by prison personnel against prisoners; however, no statistics were available at year's end. However, prisoners rarely know their rights and they do not believe that officials will respond to complaints; therefore, they do not file official complaints.

On November 15, prisoners in the country's largest prison, the National Penitentiary in Port-au-Prince, rioted. According to onsite interviews by human rights organizations, the revolt began following the death of a prisoner, Max Ambroise. After he apparently complained of hunger, prison guards beat Ambroise to death. Members of the CIMO specialized police unit were brought in to put down the riot. Well-publicized photos showed CIMO agents standing next to rows of naked prisoners lying face down in the main courtyard. Prisoners accused CIMO agents of beating them with sticks, fists, and boots. Local human rights groups requested an independent commission to investigate the riot and CIMO behavior; at year's end, no such commission had been established.

In January the prison system began to correct previous food shortage problems, which had caused the deaths of a number of prisoners. A new Director of Purchasing was hired from the private sector. Penitentiary authorities increased internal controls such as accounting systems; instituted better control over central and outlying food stocks; improved food transportation; and doubled the pay of cooks, which decreased theft. As a result, deaths in prisons decreased from 11 in January to 3 in February. Since then, an average of 5 prisoners have died each month due to various causes, including malnutrition. An estimated 18 percent of deaths still are related to malnutrition, which may be due to the outside environment. In some provinces, more than half of incoming prisoners suffer from advanced malnutrition. Prisons continued to experience water shortages.

The ICRC manages a number of humanitarian programs to improve living conditions within the prison system. On a quarterly basis, the ICRC distributes basic hygiene supplies to the prisons. It also provides funding on an as needed basis to clear prison septic tanks and renovate bathroom facilities. The ICRC also continues to donate reading material, sewing machines, wood, and other items to help prisoners pass the time. Based on recent turmoil, the ICRC has decided to postpone plans to reduce its operations and to delay the departure of some expatriate employees.

The prison system operates at the same budget level as in 1995. Administrators have requested a tripling of its budget, but the political crisis is expected to cause a continuation of budgetary freezes. In August 129 new prison guards were hired and trained. They received training and lectures on proper care and treatment of prisoners.

Most of the prison nurses do not receive adequate training. All receive a minimal 3-month training course before beginning work; however, of the system's 60 nurses, at most 5 have completed the 3-year course of instruction necessary to obtain full certification as registered nurses. The Chief Physician resigned in June and was not replaced by year's end. Only the National Penitentiary has a nurse on duty 24 hours a day. Other common sicknesses besides malnutrition are skin problems, tuberculosis, and HIV/AIDS. Doctors are available in the capital, but they are less frequently available in the provinces. The nurses do not conduct daily checkups on the physical condition of the prisoners. Dispensary supplies are limited. If needed medication is not available through the dispensary, family members must provide it; in cases in which there are no relatives, the ICRC provides funding for the medication on a routine basis in the capital and on a quarterly basis in the provinces.

Fort National prison in Port-au-Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from men. However, in January 2000, U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy reported, based on her 1999 visit, that most female prisoners share living quarters with male prisoners. This subjects women to violence and sexual abuse.

Due to overcrowding, juveniles often are held with adults.

The authorities freely permitted the ICRC, the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners with medical care, food, and legal aid. The Director General of the HNP cooperated with the ICRC.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, the security forces continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or if a written order by a legally competent official such as a justice of the peace or magistrate has been issued. These orders cannot be executed between 6:00 p.m. and 6:00 a.m., and the authorities must bring the detainee before a judge within 48 hours of arrest. In practice, the authorities frequently ignored these provisions. There were instances of arrests by security forces and local authorities lacking the authority to do so. In particular, arrests by mayors and members of local CASEC's occurred in underpoliced rural areas (see Sections 1.c. and 6.a.). Police often carry out an arrest warrant issued by a judge with little or no evidence (see Section 1.f.). Locally elected officials and local HNP increasingly arrested spouses of suspects. Occasionally parents ask a judge to imprison a delinquent child.

Certain police jurisdictions routinely disregarded the requirement that a detainee be brought before a judge within 48 hours of his arrest. Although the 48-hour rule is violated in all parts of the country, it most often and most flagrantly is ignored in Jeremie, Cap Haitien, Petionville, and the Delmas commissariat of Port-au-Prince. Moreover, arrests sometimes are made on charges (for example, sorcery or debt) that have no basis in law. The authorities also detained some persons on unspecified charges or "pending investigation." Local human rights organizations often criticized the Government for arresting persons on charges of "plotting against the security of the state," a charge that they claim is misused for political or personal vendettas.

On July 22, plainclothes officers, subsequently identified as National Palace security police, arrested Dr. Yves Joseph Blondel Auguste, a prominent doctor and hospital director. The police took him to the Palace for questioning and then transferred him to a local detention facility. A number of national human rights organizations criticized the arrest, calling it illegal, arbitrary, and reminiscent of the actions of former dictator Jean-Claude Duvalier's secret police. In early July, Auguste had accused Health Minister Henri-Claude Voltaire of corruption. A judge released Auguste on July 26; he was never charged.

Following the July 28 attacks on facilities (see Section 1.a.), the Brigade de Recherche et d'Intervention (BRI) (Research and Intervention Brigade), a special squad of the HNP, arrested seven members of the former military throughout the Port-au-Prince area. At year's end, these detainees had not been charged with any crime, nor had they appeared before judges. In addition, on August 22, police arrested four members of the KID opposition party for allegedly carrying illegal weapons. On September 21, a judge ordered them released. Police and local elected officials illegally arrested a number of persons in the Central Plateau towns of Hinche and Belladere following the July 28 attacks (see Sections 1.a., and 1.c.). They were released at different periods during the 2 months following the attacks. Human rights organizations reported a sharp increase of arbitrary arrests among the general population after the attacks. In addition, on August 22, police arrested four members of the KID opposition party for allegedly carrying illegal weapons.

Police arrested and detained several journalists during the year (see Section 2.a.). On May 26, the authorities arrested Prosper Avril at a book signing. The former general and President of the military government from 1988–1990 had been in self-imposed internal exile since 1995, when he was ordered arrested by then-President Rene Preval. His May 26 arrest was based on the same 1995 warrant. On June 12, a panel of judges declared that the arrest warrant was invalid and ordered him released. The Government vowed to appeal the decision before the Court of Cassation, the country's highest court, but had not done so by year's end. Instead, Avril remained in prison under new criminal charges based upon incidents of torture in 1990 (see Section 1.c). The opposition and local human rights organizations criticized Avril's continued detention.

In the past, when the authorities received Haitian citizens deported from other countries for having committed crimes, they were generally processed in 1 week and then released. Since March 2000, criminal deportees who already have served sentences outside the country are kept in "preventive detention," with no fixed timetable for their eventual release. According to police officials, the deportees are held in order to prevent an increase in insecurity and to convince them that they would not want to risk committing crime because of prison conditions. The average period of preventive detention for these persons has decreased to approximately 1 month, compared to several months in 2000.

In 1999 the international community expressed concern about the authorities' tendency to detain persons in violation of valid court orders for their release; the practice continued during the year. The joint OAS–U.N. International Civilian Mission in Haiti (MICIVIH) expressed "extreme concern" about these cases and described the authorities' actions as "completely arbitrary and illegal." Prisoners with histories of opposition to the Government or affiliation with the Duvalier or de facto regimes were affected disproportionately by this practice. By August 2000, approximately half of those prisoners identified in 1999 had been released. By year's end, prisoners still held despite valid release orders included Leoncefils Ceance, Esteve Conserve, Calero Vivas Fabien, Jean-Robert Lherisson, Rilande Louis, Leonard Lucas, Georges Metayer, Alexandre Paul, Jean-Michel Richardson, and Jean Enel Samedi.

As in previous years, the dysfunctional judicial system resulted in prolonged pretrial detentions, with an estimated 79 percent of the country's prisoners awaiting trial (see Section 1.e). The problem is most extreme in Port-au-Prince, where 89 percent of those imprisoned in the National Penitentiary are in pretrial detention. The percentage of female and minor detainees in pretrial detention decreased from 98 percent to 88 percent.

The Justice Ministry has made occasional efforts to address the problem of prolonged pretrial detention. In February President Aristide and Justice Minister Gary Lissade visited Fort National and granted clemency to 20 women. On April 24, the Prime Minister and Lissade made a well-publicized visit to the National Penitentiary. Fifty detainees were released when examination of their files showed that even if convicted, their sentences would have been less than time already served. Government officials state that this was the beginning of a renewed emphasis on decreasing the number of pretrial detainees. In May six new judicial officials began working at the National Penitentiary. Although still preliminary, there appear to have been decreases in the prison population, especially in the National Penitentiary, and decreases in the percentage of pretrial detainees system-wide (see Section 1.c.).

Bail is available; however, it is entirely at the discretion of the investigative judge (juge d'instruction). Bail hearings are not automatic. The attorney for the defendant can make an application based upon a specific need, and the judge then decides if a conditional release is warranted. This usually is done only in minor cases when there is an overwhelming humanitarian reason, such as a need for medical attention.

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use. The July 28 attacks and subsequent crackdown in the Central Plateau forced a number of former military and opposition members to flee their homes (see Section 1.a.). Some had not returned to their homes by year's end, fearing that they would be killed. In addition, several persons arrested and then released during the July 28 events are in voluntary self-exile. More than 20 journalists went into voluntary exile after receiving death threats following the December 17 attack (see Section 2.a.). Self-imposed internal exile is a common practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, it is not independent in practice and is subject to significant influence by the executive and legislative branches. Years of extensive corruption and

governmental neglect have left the judicial system poorly organized and nearly moribund.

Judges assigned to politically sensitive cases complained about interference by the executive branch (see Section 1.a.). One judge received threats while investigating the 2000 killing of journalist Jean Dominique (see Section 1.a.).

At the lowest level of the justice system, the justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Appeals court judges hear cases referred from the first instance courts, and the Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality. On June 6, President Aristide appointed new judges to the Court of Cassation, which had been understaffed since the court president died in September 2000.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate a person charged with a crime unless the suspect has legal counsel or a representative of his or her choice present or waives this right; however, this right was abridged in practice. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide legal aid, many interrogations occur without counsel persons. However, some defendants had access to counsel during actual trials. The Constitution provides defendants with a presumption of innocence and the rights to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf; however, in practice corrupt and uneducated judges frequently deny defendants these rights.

A shortage of adequately trained and qualified justices of the peace, judges, and prosecutors, as well as underfunding, among other systemic problems, created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date (see Section 1.d.). If an accused person ultimately is tried and found innocent, there is no redress for excessive time served in detention.

In some regions, there are not enough judges to hear cases, and judges lack basic resources (such as office space, legal reference texts, and supplies) to perform their duties. Professional competence sometimes is lacking as well; some judges are illiterate. While previously judges conducted most legal proceedings exclusively in French, they increasingly use Creole in judicial proceedings. However, language remains a significant barrier to full access of the judicial system (see Section 5).

The Constitution sets varying periods of tenure for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercises appointment and administrative oversight over the judiciary, prosecutors, and court staff. The Ministry of Justice can remove justices of the peace and occasionally dismisses judges above this level as well. On June 11, in a first step towards public accountability of the judicial system, the Ministry of Justice opened an officer where persons could file complaints against judges.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes and divides the authority for cases among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often receive files that are empty or are missing police reports. Autopsies are conducted only rarely, and autopsy reports are even more rare. The Code provides for 2 criminal court sessions ("assizes") per year in each of the 15 first instance jurisdictions to try all major crimes requiring a jury trial; each session generally lasts for 2 weeks. During the year, the Port-au-Prince jurisdiction—by far the largest in terms of caseload—again failed to adhere to this stipulation due to difficulties in assembling juries. Criminal assizes in Port-au-Prince have met once a year since 1998, with the last meeting held in June.

In late March, Maissade mayor Willot Joseph and Hinche mayor Joseph Dongot, accompanied by members of their paramilitary groups, severely beat two local judges who had opened investigations into the actions of the mayors in the detention and beating of opposition members in July 2000 (see Section 1.c.). After the beating, the mayors closed the judicial offices in Hinche and Maissade and threatened the employees. On April 17, Justice Minister Gary Lissade ordered the mayors arrested. On April 19, the authorities arrested Dongot; however, Willot went into hiding. The Minister of Justice came under heavy pressure by the Union of North-

ern Mayors and by the Minister of the Interior to free Dongot, and on April 26, he was released provisionally. There was no further investigation by the Justice Ministry. In December President Aristide replaced the mayors of Hinche and Petit-Goave (see Section 1.c.).

In December 2000, 39 lawyers graduated from the Magistrate's School. In June a class of approximately 80 students began the year-long course of study. The school conducted seminars on human rights and judicial reform during the year.

There were no reports of political prisoners, although there were several political detainees (see Section 1.d.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits interference with privacy, family, home, or correspondence; however, police and other security force elements conducted searches without warrants. Locally elected officials and local HNP increasingly arrested spouses of suspects. Following the July 28 attacks (see Section 1.a.), police and local officials arrested several spouses of former military and opposition leaders. In general they were released within 1 month.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government's respect for the press continued to deteriorate during the year. Print and electronic media from opposite ends of the political spectrum often criticize the Government. However, there were several cases of attacks on, or threats against, journalists during the year. Most media practice self-censorship due to fear of offending sponsors or the politically influential.

There are two French-language newspapers in the country, *Le Nouvelliste* and *Le Matin*, with a combined circulation of less than 20,000 readers. Print media in Creole is limited due to regional variations and the lack of a consistent orthography; however, many newspapers include a page of news in Creole. Both daily newspapers are frequently critical of government policies.

The written press is beyond the reach of many citizens, due to language differences, illiteracy, and cost.

With a low rate of literacy (approximately 52 percent) and the relative scarcity of televisions, the most important medium is radio, especially those stations broadcasting in Creole. Two hundred fifty three private radio stations exist, including approximately 40 in the capital alone. Most stations carry a mix of music, news, and talk show programs, which many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite television is available; however, its impact is limited, as most persons cannot afford access to television. The few stations carrying news or opinion broadcasts freely express a wide range of political viewpoints.

On December 3, members of a progovernment popular organization, *Domi nan Bois*, hacked to death a Petit-Goave journalist, Brignol Lindor. Lindor's name was on a list publicly announced over the radio on November 30 by Dube Bony, deputy mayor of Petit-Goave and a member of the ruling FL party. Bony said that the six persons on the list—opposition members and journalists—should be met with “zero tolerance” (see Section 1.a.). Lindor's funeral on December 11 was attended by thousands of persons, and was followed by several days of civil unrest in Petit-Goave. Units of the special reaction force CIMO were called in. Several eyewitnesses accused CIMO of brutality in putting down the unrest. No one was arrested in connection with Lindor's murder, although it was witnessed by several residents.

On June 1, police in the town of Belle-Anse arrested Raphael Francen, a journalist with Radio Telediffusion Jacmelienne. Francen had reported that local police arrested a resident in the evening, in violation of the requirement that an arrest order cannot be executed between 6:00 p.m. and 6:00 a.m. (see Section 1.d.). The next day, police arrested Francen at midnight. The Association of Haitian Journalists called his arrest “illegal and arbitrary.” He later was released.

In early August, police arrested two journalists from Radio Rotation FM in the town of Belladere, who were reported to have tapes by the perpetrators of the July 28 attacks (see Section 1.a.). The police released the journalists later the same day; however, the journalists said that police beat them. The Association of Haitian Journalists promised to investigate the charges.

Following the October 11 killings of three persons by police (see Section 1.a.), police beat a Radio Haiti Inter reporter, Jean Robert Delcine, while he was investigating the killings. Police confiscated his tape recorder and hit him with fists and batons. The police allegedly said that he deserved what he was getting because he belonged to the “Jean Dominique group.” Dominique was director of radio station Radio Haiti Inter until his April 2000 murder (see Section 1.a.).

Radio stations and journalists continued to receive anonymous threats. In January the Director of Information at Caraibes FM said he had received multiple anonymous threats for 3 months. He sent his family out of the country because of fears for their safety. On March 21, Signal FM reported that it had received repeated anonymous threats against its reporters and its radio programs. Most threats were made against their program "Haiti Today" and a frequent contributor, Haitian historian Michel Soukar. Unknown men asked residents to tell them where Soukar lived and to describe the car he drove. In mid-April hundreds of persons attacked the radio transmitters of Radio Vision Nouvelle and Radio Lumiere, two independent radio stations based in Port-au-Prince and killed Fritz Antoine Jean, a Radio Vision Nouvelle guard. No group claimed responsibility for the attacks. The radio station owners said that the attacks could have been politically motivated or linked to vigilante raids on criminals based in the Bois Neuf slum (see Section 1.a.). The international organization Reporters Without Borders protested the attacks and called on the Government to provide security; at year's end, the Government had not done so.

On June 9, an unknown caller threatened Roosevelt Benjamin, director of information at Signal FM, who had just finished his weekly political talk show. On June 10 and 11, Benjamin received similar death threats from the same and other anonymous callers. Benjamin had discussed a new political organization, the Majority Civil Society Movement, and said that the organization was dominated by the relatives of ruling party senators. On June 13, the Committee to Protect Journalists wrote a letter to President Aristide, and expressed "profound concern" over the threats to Benjamin.

On June 21, unknown gunmen threatened the journalist Fritson Oreus. Oreus was accosted while driving down the main Port-au-Prince road of Delmas. The attackers forced him to pull over in a nearby gas station, where they kept him at gunpoint and wrote down his identification and press badge numbers. They said the car he was driving was the same as that of murdered journalist Jean Dominique (see Section 1.a.). Oreus is the host of an evening news program at the Radio Haiti-Inter station, of which Jean Dominique was director. The gunmen, who claimed to be police officers, left after 15 minutes. Reporters Without Borders wrote a letter to the Ministry of Justice to express its concern. The organization's Secretary-General, Robert Menard, speculated that the assault on Oreus was meant as a warning to Radio Haiti-Inter, which has continued to investigate the killing of its director.

On August 27, journalists in the southeastern town of Thiotte said that they had received multiple threats from local authorities and popular organizations close to the Government. Among others, Edner Confidence of Radio Sacre-Coeur said that he had received death threats because he reported on irregularities and corruption in the public administration of the commune of Thiotte.

Journalists reported receiving death threats following the December 17 attacks (see Section 1.a.). More than 20 went into exile. Several radio stations closed down during the day because of intimidation and threats.

A number of journalists reported that they continued to receive threats because of their use of the term "May 21 Senators" and "contested Senators." Many journalists use these terms to describe Senators elected in the controversial May 2000 and November 2000 elections (see Section 3).

The Government's inability and unwillingness to provide adequate security to media outlets and journalists has contributed to an increased sense of vulnerability among those members of the media who criticize the Government or FL.

Although most radio stations and other forms of telecommunications are nominally independent, they are subject to a 1997 law that names the State as the sole owner and proprietor of the airwaves. Members of the media believe that the Government refuses to sign the Chapultepec Convention (on freedom of expression) because the Convention prohibits government monopolies of the media, which would be in direct violation of the 1977 law. The State leases the right to broadcast to private enterprises but maintains the right to repossess the airwaves in the event of national emergencies, including natural disasters. The Government has not exercised this right in practice.

The financial and other means at the Government's disposal provide it with the means to hire experienced staff from competing media. In February and March, key personnel from a private television station moved to the government-owned National Television of Haiti because of offers of higher salaries.

There was no information available on any investigation into the December 2000 killing of sports broadcaster Geral Denoze.

The investigation into the April 2000 killing of prominent radio commentator and journalist Jean Dominique and a security guard continued during the year (see Sec-

tion 1.a.). Local and international human rights groups frequently criticized the slow pace of the investigation.

Foreign journalists generally traveled without hindrance from the authorities.

The Government does not censor books or films, nor does it limit access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly. Although a variety of organizations were able to exercise this right without hindrance throughout the year, numerous violations of the freedom of assembly occurred in the provinces. CIMO routinely was accused of using excessive force against demonstrators (see Section 1.c.). Especially in the Central Plateau, NGO's are refused permits to assemble. Authorities frequently failed to provide security for opposition parties conducting peaceful demonstrations.

On June 20, members of the Solidarity Committee for Dany Toussaint gathered in the public square of Grand-Goave to demonstrate their support for Senator Toussaint, who is a suspect in the killing of journalist Jean Dominique (see Section 1.a.). Police from the Grand-Goave police station beat the demonstrators with clubs and forced them to disperse.

In several cases, police inaction allowed organized political militants to violate the right of freedom of assembly in practice, and there were numerous violent political demonstrations (see Section 1.a.).

On May 21, government supporters clashed with opposition members in Les Cayes. The progovernment group surrounded a house where the opposition Democratic Convergence was holding a meeting. They began to throw stones and fire weapons. Two government supporters and one bystander were injured. The police, who were approximately 200 yards away at the police station, took more than 1 hour to respond. When they did arrive, they arrested Convergence leader Gabriel Fortune. Police said they detained Fortune to protect him, but later said that someone had filed a complaint against him. Fortune was released on June 4.

On August 29, progovernment militants broke up a demonstration in the Port-au-Prince suburb of Petionville. The demonstration was organized by the Democratic Party of Haiti, an opposition political party. During the demonstration, the militants arrived and began throwing stones at the demonstrators. One opposition member was hit in the head by stones. According to several eyewitnesses, the counter-demonstrators fired weapons in the air. Police were present but did not prevent the counter-demonstrators from breaking up the opposition demonstration.

In November strikes by the Convergence sparked a crackdown by the Government. Police in Jacmel and Gonaives barred demonstrations by persons opposed to the Government. Although they said the reason was an inability to provide proper security, police only forbade opposition marches while allowing progovernment marches to take place with adequate security.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. The Penal Code requires the Government to give prior approval before an association of more than 20 persons can be formed, if the association wants tax benefits and official recognition from the Government.

c. Freedom of Religion.—The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government generally respects this right in practice.

In many respects, Roman Catholicism retains its traditional primacy among the country's religions, although Protestant denominations (primarily Methodist and Baptist) have overtaken the Catholic Church in numbers of active members. Voodoo, a traditional religion derived in part from West African beliefs, is practiced alongside Christianity by a large segment of the population. Official recognition by the Ministry of Religious Affairs gives religious organizations legal standing, tax exempt status, and extends civil recognition to church documents. While there are associations of voodoo practitioners and priests, there is no organized hierarchy. On April 30, the Ministry of Religion officially recognized the first voodoo church, the Eglise Vodou d'Ayiti. Accusations of sorcery, particularly in rural areas, have resulted in mob violence and killings. Given the prevalence of voodoo in these areas, it appears likely that voodoo practitioners are targeted in some cases. On May 21, several residents of the village of Chenet killed a houngan (male voodoo priest) by stoning and with machete blows. They accused the houngan of poisoning two brothers, Jackson and Gilmeus Similien. There was no investigation.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

An unknown number of undocumented migrants put to sea during the year seeking better economic opportunities in other countries. The Government's National Mi-

gration Office (ONM) is responsible for assisting citizens repatriated from other countries, including the Dominican Republic, the Bahamas, Cuba, and the United States. In 2000 the ONM stopped meeting, processing, and providing humanitarian services to involuntarily repatriated migrants. However, in June ONM again began to meet and process repatriated citizens. It infrequently gives small sums of money to the repatriated migrants to fund their transportation home. According to the International Organization for Migration, the Dominican Republic deports approximately 500 Haitians each month across the border. In December the Dominican Republic's Directorate of Migration reported that 9,047 Haitians were repatriated during the year; however, the armed forces of the Dominican Republic carried out massive repatriations at the beginning of the year and claimed to have repatriated approximately 12,000 Haitians per month in the first 3 months of the year. These figures of claimed repatriations were significantly lower than similar claims made in 2000. There continued to be reliable reports of separation of families and maltreatment of Haitians by Dominican soldiers during the year. There were no credible reports of mistreatment of migrants repatriated to Haiti from other countries, including the U.S.

The law provides for the granting of asylum and/or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. On May 31, 12 Cuban refugees arrived at the northern city of Cap-Haitien. They were escorted to the local fire station and were aided by government authorities. Although they verbally claimed asylum, they left for the Dominican Republic on June 11. The question of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully. In practice the political system remains in transition from a dictatorial system to a more open and competitive one. The dominant FL political party manipulated legislative and exaggerated electoral participation in the presidential elections of 2000. The FL controls all government power, including the presidential, legislative, and judicial branches. Most local and regional elected leaders are members of the FL.

In May 2000, a first round of long overdue senatorial, legislative, and municipal elections to fill vacant posts took place after repeated postponements. There were scattered acts of violence in the months leading up to the election.

Under the Constitution and electoral law, a candidate for the Senate or Chamber of Deputies must receive an absolute majority of votes cast in order to be elected in the first round of voting. If no candidate receives a majority, a second round runoff is required. The Senate results published by the CEP announced that the ruling FL party won 16 of the 17 Senate seats in the first round. These results were based on what opposition parties and independent observers termed a flawed interpretation of both the Constitution and the electoral law.

Observers described these elections as generally free and fair despite some scattered irregularities. However, the CEP manipulated the results by its choice of a methodology in calculating the percentages for the determination of Senate seats, the faulty transmission of results, and the arbitrary treatment of challenges that affected the results of several races. A December 2000 OAS report also described significant candidate intimidation and theft of ballots. Because the Government refused to correct these manipulations, a political standoff between the FL and the opposition ensued. Opposition parties boycotted a second round of legislative elections in July 2000 (which included no senatorial seats) and the second round November 2000 presidential elections. Despite local and international calls not to seat the Parliament before resolution of the election controversy, in August 2000, Parliament was sworn in formally.

Violence again escalated prior to the November 2000 presidential elections, which took place amidst heavy police security and were characterized by low turnout—credible accounts varied from 5 percent to 20 percent. With the opposition boycott, former President Aristide faced only token opposition and was elected to a 5-year term with a reported 91.5 percent of the votes cast.

The political stalemate over the legislative elections continued throughout the year. A number of the largest opposition parties, including the Espace de Concertation, OPL, and MOCHRENA, formed an umbrella group following the 2000 legislative elections—the Democratic Convergence. The Convergence has attempted to present a unified opposition front in response to the controversial legislative and presidential elections of 2000. The Government and the Democratic Convergence

have conducted intermittent negotiations under the aegis of the OAS, the Caribbean Community (CARICOM), and local civil society groups.

On February 6, the Convergence named respected lawyer Gerard Gourgue as provisional president of their "alternative government." Gourgue called the act "symbolic," designed to protest the Government's refusal to amend the results of the May and November 2000 elections. Convergence supporters demonstrated in Petit-Goave and Gonaive. Despite high tensions and scattered violence, police successfully patrolled the streets.

On February 7, Jean-Bertrand Aristide was inaugurated as President. Notwithstanding the previous year's electoral controversy, the inauguration marked the first time in the country's history that a full-term president peacefully transferred power to an incoming president.

From March 17–21, pro-FL members demonstrated in the streets of Port-au-Prince, demanding that the Government arrest Gerard Gourgue. The bulk of their anger was directed at the opposition's headquarters in Port-au-Prince. The militants burned tires, threw rocks at the opposition headquarters, and closed streets to protest the Convergence's perceived intransigence and their proclamation of an "alternative government." On March 19, the opposition and the demonstrators exchanged gunfire in front of the headquarters. In the ensuing melee, a pro-FL demonstrator was killed and several opposition members were beaten severely. Demonstrators destroyed property and threatened several opposition leaders. During the 5 days of riots, the police were largely absent. Pro-FL militants arrived in government-owned vehicles and appeared well-organized, giving rise to the general perception that the Government organized the riots.

On March 26, five opposition supporters were shot and wounded following a peaceful Convergence demonstration in the town of Petit-Goave. Local journalists said the FL Petit-Goave mayor and his security force were responsible for the wounding of the five opposition members. There was no investigation nor were there any arrests in the case.

A period of frequent negotiations, mediated by the OAS, CARICOM, and local civil society groups, occurred between April and July. Fanmi Lavalas and the Convergence discussed the possible makeup of a new CEP, a timetable for new elections, security for political parties, and other confidence-building measures. Although much progress was made, including substantial concessions from both sides, the negotiations were suspended in mid-July without a final agreement.

On July 28, unknown gunmen attacked police stations in Port-au-Prince and the provinces. A subsequent crackdown by the authorities further increased tensions between Lavalas and Convergence (see Section 1.a.).

In November police in Jacmel and Gonaives barred demonstrations by the Democratic Convergence; pro-Government marches were allowed (see Section 2.b.).

On November 15, schools and businesses in Cap-Haitien were closed after 1 night of rioting. Opposition and government popular organizations clashed over plans by the opposition to hold a 2-day strike. There were no reports of injuries.

Increasingly, affiliation with the FL is considered necessary for employment by the Government, and political patronage is widespread. Pro-FL popular organizations throughout the country occasionally have criticized the Government for not giving them more jobs. It is common for political appointees to use their positions for personal enrichment.

There are no legal impediments to women's participation in politics or government; however, the percentage of women in government and politics does not correspond to their percentage in the population. The Election Law provides that the monetary deposit required of female candidates for political office is one-half that required of male candidates if a recognized party sponsors them. Three of the 82 deputies are women, and there are 6 women among the 27 senators. Three of the 16 ministers in the Government are women.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operate without government restrictions; however, threats and intimidation from unknown sources continued to increase during the year. The number of groups that monitor human rights has grown, as has the scope of those groups; however, most monitoring groups are hampered by a lack of resources. Human rights organizations increasingly turn to issues that they have not addressed before, including prison conditions, the widespread lack of health facilities, and impunity for criminals. Local officials often attempt to control domestic human rights groups, as well as other local NGO's. Especially in the Les Cayes region and in the Central Plateau, NGO's often are har-

assed, refused permits to assemble, and threatened by local officials and their supporters (see Sections 1.a., 2.b., and 3).

At the national level, human rights organizations have been active and effective in monitoring alleged violations. Subsequent to a number of arrests and detentions following the July 28 attacks, human rights organizations, including the Platform of Haitian Human Rights Organizations, the NCHR, the Lawyers' Committee for the Respect of Individual Rights (CARLI), and the National Episcopal Commission on Justice and Peace, made frequent media appearances and published the first objective report on the attacks (see Sections 1.a. and 1.d.). They were instrumental in the subsequent release of all those detained after the attacks.

The NCHR, CARLI, and the Platform of Haitian Human Rights Organizations met with the Justice Minister several times to discuss ongoing human rights problems, including the Jean Dominique murder investigation (see Section 1.a.).

There were no arrests or progress made in the September 2000 torture and killing of Amos Jeannot, an employee of the local NGO Fonkoze. There were no arrests or progress made in the investigation of the 1999 attempted killing of human rights activist Pierre Esperance, NCHR country director. In both cases, the HNP's investigations remain open but by all accounts are inactive.

Organizations such as the NCHR, the Platform of Haitian Human Rights Organizations, the Human Rights Fund, and the Ecumenical Center for Human Rights reported receiving repeated threats, most of them anonymous.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the Constitution, reported receiving an increase in complaints of abuse at all levels of the Government. The OPC is tasked with investigating and reporting on the complaints on the relevant government agencies or ministries; however, the Government generally does not respond. Local human rights organizations report that the OPC does not play an active role in following up on human rights complaints, and they do not view the office as an advocate or an interlocutor with the Government. The OPC conducted a number of training seminars throughout the year, including seminars in schools and at the local and county levels of government. In June Dr. Louis Roy, the Director of the OPC, resigned, and the Deputy Director, Florence Elie, became the acting director. The OPC still has budgetary problems.

The Parliament's Justice and Human Rights Committee, created in 2000, did not have a high profile and focused largely on judicial issues during the year.

A U.N. mission, the International Civilian Mission for Support in Haiti (MICAHA), ended its mandate on February 6. MICAHA's mandate under the human rights pillar was limited to training in human rights and to strengthening the institutional capacity of the OPC. It did not conduct human rights monitoring.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution does not specifically prohibit discrimination on the grounds of race, sex, religion, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there is no effective governmental mechanism to administer or enforce these provisions.

Women.—The law provides penalties for rape and domestic violence; however, the Government does not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women is common, both within and outside marriage. A 1998 study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women do not report these forms of abuse due to fear, shame, or lack of confidence in judicial remedies. A 1999 survey by UNICEF of violence against women found that 37 percent of women reported they were victims of sexual violence or reported knowing a woman who had been; another 33 percent reported being victims of other types of physical abuse. The law excuses a husband if he murders his wife or her partner upon catching them in the act of adultery in his home. A wife who kills her husband under similar circumstances is not excused. The Criminal Code dates back to 1832 and many parts of it have not been updated. There are no government-sponsored programs for victims of violence.

The law does not prohibit specifically sexual harassment, although the Labor Code simply states that men and women have the same rights and obligations. Sexual harassment of female workers is a problem, especially in the assembly sector (see Section 6.b.).

The Constitution states that all citizens are equal before the law; however, women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. Peasant women, often the breadwinners for their families, remain largely in the traditional occupations of farming, marketing, and domes-

tic labor. Very poor urban women, who head their families and serve as their economic support, also often find their employment opportunities limited to traditional roles in domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but rarely are enforced. Female employees in private industry or service jobs, including government jobs, seldom are promoted to supervisory positions. However, well-educated women have occupied prominent positions in both the private and public sector in the past several years.

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but it has few resources at its disposal and was able to accomplish little in this regard.

Women's rights groups are small, localized, and receive little publicity.

Children.—Government health care and education programs for children are inadequate. Malnutrition is a problem. Approximately 22 percent of children under 5 years old are chronically malnourished. The Government has a school nutrition program administered through the Office of National Development, with food provided by foreign donors; health clinics and dispensaries have begun to distribute donated food to children.

The Constitution and the law provide for free and compulsory primary education; however, in practice access to public schools is the primary obstacle to most rural families. Even in public schools there are nominal mandatory fees associated with sending a child to school (uniform, books, etc.), and these costs are beyond the means of many rural families. Schools are dilapidated and understaffed. An estimated 90 percent of schools are private, and the costs of school fees, books, materials, and uniforms are prohibitive for most families. According to the Government, 40 percent of children never attend school, and less than 15 percent of those who do graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes ration education money to pay school fees only for male children.

In early September, President Aristide launched "Project Alpha," a nationwide campaign to increase the level of literacy.

Child abuse is a problem. Radio commercials urge parents not to abuse their children physically or mentally. In early September, Parliament passed a law banning corporal punishment against children. The law ordered all schools to post clearly their policies on disciplinary measures. It also called for the establishment of a commission to determine what disciplinary measures would be appropriate for schools to take.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called "restavek" (which means "lives with" in Creole); families of these children frequently received financial compensation (see Sections 6.d. and 6.f.). Most local human rights groups do not report on the plight of restavek children as an abuse nor seek to improve their situation. The Ministry of Social Affairs believes that it can do little to stop this practice, regarding it as economically motivated; the Ministry assigned five monitors to oversee the welfare of restavek children. Society holds such children in little regard, and the poor state of the economy worsened their situation.

Port-au-Prince's large population of street children includes many restaveks who have been sent out of employers' homes or who are runaways. There is some anecdotal information indicating that children are involved in prostitution or being trafficked (see Section 6.f.). The Ministry of Social Affairs provides some assistance to street children. In 1998–1999 (last available data), they assisted 887 children. The Haitian Coalition for the Defense of the Rights of the Child (COHADDE) promotes children's rights by conducting awareness raising activities.

Several international and local NGO's work on children's issues.

Persons with Disabilities.—The Constitution provides that persons with disabilities shall have the means to ensure their autonomy, education, and independence. However, there is no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities. Although they do not face overt mistreatment, given the severe poverty in which most citizens live, those with disabilities face a particularly harsh existence. Disabled beggars are common on the streets of Port-au-Prince and other towns.

National/Racial/Ethnic Minorities.—Approximately 99 percent of Haitians are descendants, in whole or in part, of African slaves who won a war of independence from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. Longstanding social and political animosities often are tied to cultural identification, skin color, and overlapping issues of class in this starkly inegalitarian society. Some of these animosities date back to before the country's revolutionary period.

Racial distinctions tend to parallel social and economic strata. Mulattos generally belong to the wealthiest classes of society. Mulattos historically have been targets of sporadic attack in many cases because they are perceived to be wealthy.

The Government recognizes two official languages: Creole, which is spoken by virtually all Haitians; and French, which is spoken by approximately 20 percent of the population, including the economic elite. The inability to communicate in French long has limited the political and economic opportunities available to the majority of the population. The Government prepares most documents only in French. Creole is used in parliamentary debate in the Lower House of Parliament. However, language remains a significant barrier to full access to the judicial system (see Section 1.e.).

Section 6. Worker Rights

a. The Right of Association.—The 1987 Constitution and the Labor Code provide for the right of association. Public sector workers are organized pursuant to Article 31 of the 1987 Constitution.

The law protects union activities and prohibits a closed shop. The law also requires a union, which must have a minimum of 10 members, to register with the Ministry of Labor and Social Affairs within 60 days of its formation in order to obtain legal recognition. The Labor Code does not require prior approval before any association is established. Unions are subject to the same registration requirements as other associations (see Section 2.b.).

The law prohibits employers, management, and anyone who represents the interests of employers in enterprises from joining a union.

Unions are independent of the Government and political parties. Nine principal labor federations represent approximately 5 percent of the total labor force of approximately 2,800,000 persons, including approximately 2 to 3 percent of labor in the industrial sector.

Several unions have pending grievances over worker rights violations against the Government before the International Labor Organization (ILO) and the International Confederation of Free Trade Unions (ICFTU). These include the National Confederation of Haitian Teachers (CNEH), the Autonomous Central of Haitian Workers (CATH), and the General Independent Organization of Haitian Workers (OGITH). Three major teachers' unions—the CNEH, the National Union of Trained Teachers (UNNOH), and the High School Teacher's Union (GIEL)—continue to accuse the Ministry of National Education (MENJS) of unfair labor practices. They accuse the MENJS of implementing changes in the labor contract without advance notification or opportunity to bargain changes prior to implementation.

There was no information on any investigation into the September 2000 killing of CATH member Elison Merzilus.

Labor unions reported several cases of threats and arrests during the year. The CATH stated that on April 9, a group of men allied with the FL surrounded CATH members who were meeting to discuss regional issues in the Gros Morne commune. Armed with machetes, pistols, and batons, the group of men attacked the unionists and violently dispersed the meeting. Ten members of the Federation of Agricultural Workers of Gros Morne and the Democratic Association of Haitian Women Workers, 8 of whom are women, have been in hiding since the incident. There was no investigation.

The CATH also reported that on April 24, FL members attacked members of its affiliate union, Organization for the Development of Bois Neuf in Cite Soleil. Five members went into hiding.

On April 30, in the Central Plateau, FL mayor of Maissade Willot Joseph arrested and physically abused Santilus Odvy, a CATH member who went to the area to conduct a seminar for the union. Odvy remained in prison for 5 days. In August Amanus Maillet, a Lavalas CASEC member in the Saint Marc commune in Artibonite, shut down the port demanding that FL militants replace all workers. Workers were idled while the port remained closed for approximately 1 month.

Unknown persons telephoned threats to several leaders of major labor confederations during the year. They were given ultimatums to rally behind the FL. Jacques Pierre, Secretary General of the Confederation of Haitian Workers (KOTA), and his family abandoned their home and spent much of the year avoiding FL militants.

Workers have access to labor courts (Tribunaux de Travail) set up to resolve common labor-management disputes. The courts function under the supervision of the Ministry of Labor and Social Affairs. These courts adjudicate and settle minor conflicts, but unions state that the process is inefficient.

The Labor Code provides for the right to strike, except for managers, administrators, and other heads of establishments, and public utility service workers. The

Labor Code defines public utility service employees as essential workers who “cannot suspend their activities without causing serious harm to public health and security.”

There were several strikes during the year, but participation was very low.

Government employees, including police and judicial employees, often are paid late. Pay periods sometimes are missed, and the employees have difficulty recouping missed wages.

Unions may freely form or join federations or confederations and affiliate with international bodies. Each of the principal labor federations maintained some fraternal relations with various international labor organizations.

b. The Right to Organize and Bargain Collectively.—The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right. No fines were issued during the year. Unions generally were free to pursue their goals, although the Government made little effort to enforce the law. Union leaders assert that some employers in the private industrial sector dismiss individuals who participate in union organizing activities. In 2000 the ILO criticized the law for its failure to include a specific provision providing protection against antiunion discrimination at the time of hiring. The Labor Code does not provide for reinstatement of workers fired for trade union activities.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises, the civil service, and the assembly (maquiladora) sector. The high unemployment rate and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining continued to be nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better-than-average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers is a problem in the assembly (maquiladora) sector. Female workers in the assembly sector report that some employers sexually harass female workers with impunity. Women also report that while the vast majority of assembly sector workers are women, virtually all the supervisors are men.

The Federation of Electric Company Workers (FESTREDH) and ICFTU brought a complaint against the government-owned enterprise to the ILO in 1999; the case remained pending at year’s end. In 1996 FESTREDH leaders and active members were dismissed permanently. The Government orchestrated a reorganization of the union and allowed it to function under new leadership.

There are no export processing zones. However, the Government’s 5-year economic program calls for the creation of two export processing zones, one in Cabaret and another in Cap Haitien.

c. Prohibition of Forced or Compulsory Labor.—The Labor Code prohibits forced or compulsory labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as restaveks in urban households under conditions that amount to slavery (see Sections 5 and 6.d.).

Trafficking in men, women, and children exists; most adult victims are trafficked to the Dominican Republic as manual laborers. Most Haitians freely work in the Dominican Republic. However, there are cases of Dominican-Haitian trafficking rings coercing Haitian workers to work in Dominican sugar cane fields. Internal trafficking in children as restaveks is the most serious problem (see Sections 6.d. and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years of age. The Labor Code prohibits minors from working under dangerous conditions, and it prohibits minors under the age of 18 from working at night in industrial enterprises. There is also a legal provision for employment of children between the ages of 12 and 16 as “apprentices.” Fierce adult competition for jobs ensures that child labor is not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked on small family farms alongside their parents, although the high unemployment rate among adults kept children from being employed on commercial farms in significant numbers. Government agencies lack the resources to enforce the relevant laws and regulations effectively. According to COHADDE, children work primarily in domesticity as restaveks, but some are found working on the street, and some are involved in prostitution (see Section 5).

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor (restavek); families of these children frequently re-

ceived financial compensation (see Sections 5 and 6.d.). In a 1998 study, UNICEF estimated that 250,000 to 300,000 children may be victims of this form of servitude. UNICEF reported the average restavek was between 11 and 14 years of age; however, more than 20 percent were between the ages 4 and 10, and 85 percent are girls.

Host family members rape about 23 percent of these girls, 15 percent of whom become pregnant. Nearly 77 percent of restaveks have never been to school. Among those who have, only 2 percent reach secondary school. The Ministry of Social Affairs believes that many employers compel the children to work long hours, provide them little nourishment, and frequently beat and abuse them. The law requires that restaveks 15 years of age and older be paid not less than one half the amount paid to a servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers send many if not most restaveks away from the home before the children reach the age of 15.

The Government designated the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) to implement and enforce child labor laws and regulations. The Government does not devote adequate resources and oversight to child labor policies. The budget for the entire Ministry is far below what is needed to fund adequately programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinates efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies to formulate and enforce child labor policies. The Government requested ILO/IPEC assistance to combat child domestic work, a significant step towards addressing the existing gap between practice, national legislation, and international standards. The Government signed a Memorandum of Understanding with ILO/IPEC in 1999, incorporating the country into IPEC membership. IPEC began a Child Labor Project in January 2000, and has developed a framework of action focusing on institutional capacity building, prevention through awareness-raising, and direct assistance to victims of child labor.

The Labor Code prohibits forced and bonded child labor, however, forced child labor is a problem (see Section 6.c.). The country is also a source for trafficked children (see Section 6.f.).

e. Acceptable Conditions of Work.—The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members are appointed by the President of the Republic, (two representatives each of labor, employers, and Government), is approximately \$1.52 (36 gourdes). Annually, a minimum wage worker would earn approximately \$473 (11,000 gourdes), an income above the national average but not sufficient to provide a decent standard of living for a worker and family. The real value of the gourde has declined, contributing to the insufficiency of the minimum wage. Some workers are paid on a piece-rate basis, and may earn more than the minimum wage. The majority of citizens work in the informal sector and subsistence agriculture, where minimum wage legislation does not apply. Many women work as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, the officers of the HNP work 12-hour shifts 6 days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. However, the Ministry of Social Affairs does not enforce work hours or health and safety regulations.

The assembly sector published a voluntary code of conduct in 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally pay the minimum wage or higher amount. Working conditions are also generally better in this sector. There are no reports of child labor in this sector.

There is no formal data, but unions allege that job-related injuries are prevalent in the construction industry and public works sectors. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons.—The law does not prohibit trafficking in persons, and internal trafficking of children is a problem. Haiti also is country of origin for trafficked men, women, and children. Haitians trafficked overseas are sent largely to the Dominican Republic, the U.S., Europe (mainly France), and Canada. However, most trafficking occurs within the country's borders and involves restavek children (see Sections 5 and 6.d.). Most children are primarily trafficked for labor, but some

are trafficked for purposes of prostitution. The practice of parents sending their children, mainly girls, to work as domestic servants in exchange for that child's room and board has existed in the country for centuries. While many *restaveks* are well taken care of and receive adequate care including an education, a significant number are subjected to violence, threats, and other forms of physical and mental abuse.

The Government has acknowledged the internal trafficking problem and has taken steps to address it despite severe resource constraints. There is no evidence that the authorities are complicit in trafficking. There is no law specifically prohibiting trafficking in persons, and the Government does not adequately enforce existing labor laws regarding child labor. The Government devotes the bulk of its entire social welfare budget to combating the trafficking of children. For example, the Government ran a media campaign to prevent the mistreatment of children and maintained a hotline for victims. These efforts resulted in the removal of 760 children from abusive households. Government officials then placed rescued victims in shelters and in the care of local NGO's. The ILO, at the Government's request, is developing a framework to address the gap between practice, national legislation, and international standards with regard to combating trafficking in children.

HONDURAS

Honduras is a constitutional democracy, with a president and a unicameral congress elected by separate ballot for 4-year terms. On November 25, voters elected Ricardo Maduro of the Nationalist Party president in elections that domestic and international observers judged to be generally free and fair. Maduro is scheduled to take office on January 27, 2002; he is to replace President Carlos Flores Facusse of the Liberal Party. The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to outside influence.

The Honduran Armed Forces (HOAF) include the army, the air force, and the navy. A 1999 constitutional amendment established direct civilian control over the armed forces through a civilian Minister of Defense. The amendment also replaced the position of the armed forces commander in chief with that of Chief of the Joint Staff. In April Congress passed the Organic Law of the Armed Forces to solidify civilian control over the military, a process that has taken a decade. The Organic Law came into effect in October. In January the Armed Forces made public its budget—\$41.5 million (643 million lempiras)—for the first time. The National Preventive Police (formerly a paramilitary force known as the FUSEP) were placed under civilian control in 1997. The police handle public security, counternarcotics, and border patrol duties. The Ministry of Security oversees police operations. The military are authorized to support law enforcement activities with police upon presidential authority. The military continued to participate in joint patrols with police to prevent and combat high levels of criminal and gang activity. While civilian authorities generally maintain effective control of the security forces, members of the security forces sometimes acted independently of government authority regarding human rights abuses. Members of the police continued to commit human rights abuses.

The country has a population of slightly more than 6 million. The market economy is based primarily on agriculture and, increasingly, on the maquiladora (in-bond processing for export) industry, which accounts for approximately 125,000 jobs, most of which are filled by young women. Approximately 33 percent of the labor force works in agriculture, followed by 24 percent in commerce, and 15 percent in manufacturing. The principal export crops are coffee and bananas; these, along with "value added" income from the maquiladora industry and remittances from Hondurans living abroad, are the leading sources of foreign exchange. Nontraditional products, such as melons, pineapples, and shrimp, play a growing role in the economy. The economy has recovered from Hurricane Mitch in 1998, but growth has slowed during the year due to low coffee prices and a decreasing expansion in the maquiladora sector. The Central Bank estimated growth for the year at between 3.0 and 3.5 percent. Annual per capita income is approximately \$920; about two-thirds of the country's households live in poverty, and 40 percent of the population lives on less than a dollar a day.

The Government generally respected the human rights of its citizens; however, serious problems remained. Members of the security forces committed some extrajudicial killings. Well-organized private and vigilante security forces are alleged to have committed a number of arbitrary and summary executions. Human rights groups accused former security force officials and the business community of colluding to organize "death squads" to commit extrajudicial, summary, and arbi-

trary executions, particularly of youth. Security force personnel beat and otherwise abused detainees and other persons. Prison conditions remain harsh, lengthy pre-trial detention is common, and detainees generally do not receive due process. Considerable impunity for members of the economic, military, and official elite, exacerbated by a weak, underfunded, and often corrupt judicial system, contributed to human rights problems. Although the civilian courts considered allegations of human rights violations or common crimes against armed forces personnel, and some cases went to trial, there were few, if any, convictions. While no senior Government official, politician, or bureaucrat, or member of the business elite was convicted of crimes, a number were under investigation during the year. The Government removed or demoted more than 200 military officials, police officers, police agents and investigators, and judges from office on corruption and other charges. The judicial system continued to deny swift and impartial justice to prisoners awaiting trial. On occasion the authorities conducted illegal searches. Individual members of the news media suffered various forms of harassment. The Government brought questionable charges of public disruption against a number of human rights activists. Other human rights problems included violence and societal discrimination against women, child prostitution, abuse of children, and discrimination against indigenous people. The Government does not enforce effectively all labor laws. Many workers in the private sector are forced to work unpaid overtime. Child labor is a problem, particularly in rural areas, in the informal economy, and in some export agriculture, but generally not in the export-processing sector.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by government agents; however, members of the security forces were suspected of involvement in approximately 24 of the estimated 603 extrajudicial, arbitrary, and summary killings of youth and minors from 1998 to August 2001. The Public Ministry (Attorney General's office) or the police were unable to identify suspects due to a lack of evidence in more than 50 percent of these killings. Through October an estimated 300 youths, age 21 and under, were killed, of whom 60 victims were reported to have been shot by masked men in vehicles. Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as other youth not known to be involved in criminal activity. Several groups pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders with regard to these murders. The Inter-Agency Commission on Extrajudicial Killings created in August 2000, which consists of the district attorneys for human rights and children, the National Institute of the Family and the Child, the Supreme Court, and the investigative police unit, opened investigations in approximately 300 of the 600 cases.

In August, at the invitation of the Government, the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions visited the country to investigate these allegations and prepare a report. During her 2-week visit, she met freely with government officials and children's and human rights groups, and interviewed witnesses and family members of youth who had been murdered in a summary or arbitrary fashion. She was provided with evidence of 66 minors killed by police and private security forces from January to June. During her visit, she noted the Government's negligence in investigating or preventing extrajudicial and summary executions. Her report is expected to be published in 2002. The Ministry of Security, which has been the focus of criticism of the killings, publicly denied accusations that the police force as a whole has been involved in extrajudicial killings, although it admitted that individual police have been accused of extrajudicial killings. During the year, the authorities sought or detained 18 police officials for their involvement in the killings of various individuals, some of whom were minors. At year's end, a total of 16 officers were in prison either awaiting trial or serving a sentence, and there were arrest warrants for 2 others.

In February police were seen detaining the son of a Potrerillos, Cortes department, mayoral candidate and his friend. The two youth were killed soon after and their bodies were found later on the street. Two police officers were implicated by witnesses who saw the police stop the youths. In June the authorities arrested one of the police agents for murder; the other remained at large at year's end.

On August 13, a gang clash in Tegucigalpa caused the Government to authorize police and military patrols to quell the violence. The fighting left 3 persons dead and between 30 and 50 injured, although it was not clear whether the deaths and

injuries resulted from fighting between rival gangs or from fighting between police and gang members.

On November 13, police in Ocotepeque shot and killed Isidro Geronimo, a member of the Chorti indigenous group protesting the National Agrarian Institute's refusal to grant legal title to the land they occupy. A total of 19 other protesters were injured, and of these, 5 received gunshot wounds (see Section 2.b.).

On November 23, National Party congressional candidate Angel Pacheco Leon was shot and killed in Valle department. The police detained three suspects, all Liberal Party activists, and held them for questioning. At year's end, no one had been arrested formally.

Prison guards shot and killed one escaping prisoner during the year; there were a number of other deaths due to prison violence (see Section 1.c.).

A number of criminal cases against active and retired military officials accused of involvement in human rights abuses during the 1980's continued during the year. Most officials are accused of illegal detention and murder, because disappearance is not a crime (see Section 1.b.). Courts generally do not accept cases if the body of the victim has not been recovered and positively identified. Exhumations of clandestine graves continued, because an identified body allows families and human rights organizations to bring a case of suspected human rights abuse to court.

In February the Public Ministry issued a warrant for the arrest of former military official Jorge Adolfo Chavez Hernandez in the investigation of the 1998 murder of Carlos Antonio Luna Lopez, a town councilman in Catacamas, Olancho department. In May Chavez Hernandez was questioned and freed, but the court reinstated an arrest warrant after reviewing an appeal by the Public Ministry. In November the third judge assigned to the case revoked Chavez's arrest warrant for lack of evidence. The special prosecutor on the case reported receiving death threats while investigating the case. One suspect in the murder of Luna Lopez, Oscar Aurelio "Machetillo" Rodriguez Molina, remained in prison and reported that he was threatened after giving his testimony. Four other suspects with outstanding arrest warrants against them remained at large at year's end. The Catacamas regional court declared the process secret in order to pursue suspects who remain at large.

Various witnesses, survivors, and former HOAF personnel have charged that members of the now-disbanded army Intelligence Battalion 3-16 kidnaped, tortured, and killed many of the 184 persons who disappeared during the 1980's. The Public Ministry and the National Human Rights Commission kept open their investigations of those disappearances, but were not able to bring new cases to court due to lack of evidence (see Section 1.b.).

There was no action in the 1988 political murders of social activists Miguel Angel Pavon and Moises Landaverde; in 2000 a court had issued an arrest warrant for Jaime Raudales, a former member of Battalion 3-16.

The case of Nelson MacKay Echevarria and Miguel Francisco Carias is one of the best documented cases and includes witnesses; however, charges against both of the retired officials accused in the case have been dropped. In September a judge dismissed charges against retired Colonel Alexander Hernandez Santos due to insufficient evidence for the illegal detention and murder of Nelson MacKay Echevarria, as well as charges stemming from the kidnapping of Miguel Francisco Carias, who was found alive next to MacKay's corpse, in 1982 (see Section 1.c.). In November the Public Ministry appealed the decision. Hernandez Santos was imprisoned in December 2000 for questioning in this case, as well as for the illegal detention and attempted murder of six university students in 1982 (see Section 1.c.), and for the murders of Adan Avilez Funez and Amado Espinoza Paz. He remained in prison at year's end based on these murder charges. During the year, charges against retired Major Manuel de Jesus Trejo Rosa were dismissed for insufficient evidence. The Public Ministry has appealed the judge's decision to drop the charges.

No information was available regarding the Public Ministry's appeal to reinstate charges against retired General Daniel Bali Castillo, retired Colonel Manuel Enrique Suarez Benavides, and retired police Major Marco Antonio Matute Lagos for the 1982 deaths of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz. Retired colonel Hernandez Santos was detained for questioning.

Former security officials Jose Marcos Hernandez Hernandez, Dimas Carvajal Gomez, German Antonio McNeill Ulloa, and Juan Blas Salazar Meza were imprisoned during the year to begin trial proceedings for the 1982 murder of student activist Manuel Figueroa in Choluteca department. Salazar Meza also was questioned for his involvement in the kidnaping of 6 university students (Section 1.c.).

In May the Supreme Court reaffirmed the defense's appeal to dismiss charges due to insufficient evidence against Captain Billy Joya Amendola for the 1982 murder of university student Hans Madisson. The defense argued successfully that a DNA test that positively identified the body as Madisson's was not admissible as evi-

dence, because there was a 1 percent probability of error. The Public Ministry actively was collecting evidence from a different DNA test to reopen the case at year's end. There was no information available regarding the Public Ministry's appeal of a 1999 ruling by a lower court that found former army chief of staff Oscar Hernandez Chavez not guilty in the same case.

In an effort to uncover evidence that could lead to criminal prosecution of Government authorities suspected of human rights abuses, the Public Ministry invited forensic experts from Guatemala to exhume a cemetery on an army base in Olancho. In August 28 bodies were exhumed, of which 11 were identified as Nicaraguans. The Government reported that most of the bodies were those of Nicaraguan counterrevolutionary forces who received training at the base and that the persons appeared to have died of natural causes. After reviewing the evidence, human rights organizations agreed that the bodies were not those of leftist guerrillas killed in the 1980's. Of the four bodies disinterred in 2000, the Public Ministry confirmed that the bodies were too decomposed to allow for DNA testing and a positive identification.

Violent crime continued to fuel the growth of private—often unlicensed—guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. Vigilante justice led to the killing of known and suspected criminals, as well as youth in gangs, street children, and youth not known to be involved in criminal activity (see Section 5). Neighborhood watch groups called Citizen Security Councils (CSC's) originally were authorized by a previous Minister of Security, and some of them have been accused of taking the law into their own hands. Human rights groups criticized the CSC's, which they viewed as active participants in the increasing number of extrajudicial and summary killings. For example, in May Villanueva resident Jose Villeda Fernandez was found dead after a number of neighbors reported seeing the city's vigilante committee detain him on April 30. The vigilante committee was armed with weapons provided by the mayor's office. In October the Minister of Security and the Catholic Church stated publicly that youth murders, although a serious problem, were not organized by death squads. However, many human rights activists continued to state publicly their belief that some of the CSC's, as well as private security companies with ties to former military or police officials, were acting as vigilantes or death squads, especially targeting youth. A high level government security official acknowledged that individual police are likely to be involved. The continued proliferation of private security forces and CSC's made it more difficult to differentiate among homicides that may have been perpetrated by government security personnel, private vigilante groups, gangs, or common criminals. In order to impose some control over security services, in April the Ministry of Security registered approximately 1,000 employees of 18 private security firms.

Several "murders for hire" occurred during the year, usually related to land disputes or criminal activities. In February the Peralta Torres family was shot and killed at their home in Colon by unknown assailants, supposedly for opposing a local narco-trafficker. In February the president of a farmers' cooperative, Felix Roque, was murdered in Selva Azul, Copan department, in the presence of his 12-year-old son. The land farmed by the cooperative is under dispute. Also in February, farmer activist and cooperative president Jose Antonio Santos Lopez drowned under suspicious circumstances in Jesus de Otoro, Intibuca department. In June Carlos Flores was murdered at his home, allegedly by security guards hired by Energisa, a private company developing a hydroelectric project in Gualaco, Olancho, due to his opposition to the project. No one was arrested in any of these cases. There were no developments in the 2000 murder cases of social activist Jairo Amilcar Ayala Nunez; community leader Ruben Elvir; forestry cooperative officials Marciano Martinez Ramirez and Victor Manuel Almendares; or of the 2000 murders of Concepcion Alvarez and his family, Copan mayor Hugo Alvarado, or the 1999 murder of Cabanas mayor Juan Ramon Alvarado—all of whom were killed in land disputes.

On October 10, Ines Mejia and Wilfredo Lara were indicted for homicide and sentenced to 5 years in prison for the March 2000 murders of Chorti indigenous Vicente Ramirez, Enecon Ramirez, Antonio Garcia, and Domingo Mejia. Six other suspects remained at large at year's end, with warrants pending.

In August Casa Alianza reported that 800 children and youth, only some of whom lived on the street, were killed in "social cleansing" killings between January 1998 and May (see Section 5). Casa Alianza's information was collected from press reports. The majority of the killings occurred in Tegucigalpa and San Pedro Sula, and during the year, an increased share of killings were reportedly committed by masked armed men in drive-by shootings targeting unarmed youth. In August the Public Ministry narrowed down the Casa Alianza list to 603 victims of extrajudicial or summary killings between 1998 and 2001, of which 60 percent were minors. As of August, the Public Ministry had identified extrajudicial executions committed

over the 3-year period by 18 uniformed police, 16 of whom are in prison and 2 are at large. The Public Ministry is investigating 36 other cases with the characteristics of extrajudicial, summary, or arbitrary executions. In August 2000, the Government established a joint special commission of the Public Ministry (Attorney General's Office) and the General Directorate of Criminal Investigation (DGIC), to investigate extrajudicial killings of minors. During the year, the Ministry of Security, through its investigative police and forensic investigators, and the Public Ministry continued active investigation into 300 of the 603 cases of unsolved murders of youth since 1998. None of the agencies reported uncovering any information suggesting that these deaths were caused by organized groups.

The October 2000 complaint filed by the Casa Alianza with the Inter-American Commission on Human Rights (IACHR) regarding the illegal detention and murder by police of four youth killed in 1995 remained under investigation by the IACHR at the end of the year.

b. Disappearance.—The law does not prohibit forced disappearance. According to national human rights groups, on June 9, 39-year-old Rigoberto Martinez Lagos disappeared. He last was seen leaving his house in Tegucigalpa to meet a police investigative agent regarding a stolen car. Martinez Lagos was a member of a guerrilla group in the 1980's. The Public Ministry was unable to pursue the case further due to lack of evidence.

During the year, the appeals court did not rule on the Public Ministry's appeal of a 1999 decision that freed former police intelligence director Carlos Roberto Velasquez Ilovaes in the 1988 disappearance of student activist Roger Samuel Gonzalez Zelaya. In September the First Criminal Court questioned the director of the Military Hospital, Colonel Mario David Villanueva, regarding Gonzalez Zelaya's disappearance. Villanueva was the spokesperson for the HOAF at the time. In September the Public Ministry requested the Second Criminal Court to order an inspection of the Joint Chiefs of Staff office for evidence. Gonzalez' body has not been found, making further prosecution difficult (see Section 1.a.).

In April Amnesty International called for the Government to initiate investigations into the August 1981 disappearance of Jose Eduardo Lopez. Lopez's body has not been found, and the Public Ministry has not been able to pursue charges due to lack of evidence.

Exhumations continued during the year, and the courts adjudicated several pending cases involving political disappearances from the 1980's (see Section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained problems.

In April the district attorney for Human Rights in San Pedro Sula accused two police of torturing an indigenous man to extract a confession. The criminal court did not accept the torture charges, and the police released the indigenous detainee for lack of evidence. In August the Human Rights Committee (CODEH) received a complaint of a man who was tortured and beaten by 15 police who accused him of planting marijuana.

There were no developments regarding four police officers accused of wounding a woman in a vehicle that they allegedly attempted to stop in 1999.

The police force, which includes the Preventive Police and the DGIC, is subject to investigation by the Internal Affairs office regarding public complaints of police behavior. The Internal Affairs office reports to the Minister of Security. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR), which conduct internal reviews of police misconduct such as off-duty criminal conduct and ethics violations. An OPR ruling is reported to the Minister of Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions. Some human rights groups reported that the reorganization that took place in 2000 has increased impartial judgments of police behavior.

The Ministry of Security suspended or dismissed numerous agents and officers in both the DGIC and the Preventive Police for corruption and abuse of authority during the year. In May the Ministry of Security received congressional authority to fire security officials and agents without needing to provide proof of incompetent, corrupt, or abusive behavior. The Security authorities dismissed more than 100 police officers and DGIC agents during the year, similar to the number of officers and agents dismissed in 2000. As of November, the Public Ministry had received 330 complaints of police abuse.

In May a public feud between the Public Ministry (or Attorney General's office) and the Security Ministry barred local district attorneys from working in police stations, thus reducing the overall effectiveness of law enforcement. In September the

two ministries came to an agreement, but by the end of the year, the district attorneys still were not allowed to work out of police stations.

No more information is available regarding the three army officers who were under investigation for having beaten and threatened eight recruits in 2000.

In June 2000, the Supreme Court ruled that illegal detention and execution committed by military officials were not covered by the 1987 Amnesty Law (see Section 1.e.). This ruling allows for the criminal prosecution of military officers accused of the 1982 kidnaping and torture of six university students. A total of 19 active and former military and police officials continued to face criminal charges in various courts during the year. As a result of the ruling, amnesty laws are no longer applicable for: Alexander Hernandez Santos, Juan Blas Salazar Meza, Manuel de Jesus Trejo Rosa, Juan Evangelista Lopez Grijalba, retired Captain Billy Hernando Joya Amendola, retired General Amilcar Zelaya Rodriguez, Roberto Arnaldo Erazo Paz, Jorge Antonio Padilla Torres, and Colonel Julio Cesar Funez Alvarez.

In November the court reduced the charges faced by retired Colonel Alexander Hernandez Santos to illegal detention only, and dropped the charges for attempted murder, for his participation in the kidnaping and torture of six university students in 1982. The reduction in charges allowed Hernandez Santos to be released on bail in this case; however, he remained in prison at the end of the year while he was questioned for his participation in two 1982 murders (see Section 1.a.). At year's end, Juan Blas Salazar Meza was in prison being questioned for his participation in the illegal detention of the six students. He did not qualify for bail, because he also was being held as a suspect in the 1982 murder of Miguel Figueroa (see Section 1.a.). Salazar Meza was being held in prison for questioning in the above cases after having served a drug trafficking sentence. At year's end, retired Captain Billy Joya Amendola was free on bail while awaiting further questioning. Earlier in the year, the courts had issued warrants for the arrest of Colonel Julio Cesar Funez Alvarez, head of personnel of the Preventive Police, and retired Colonel Juan Lopez Grijalba, but neither were jailed nor tried by year's end. Retired General Amilcar Zelaya Rodriguez, the owner of the property in the Amarateca Valley of Francisco Morazan department where the 1982 incidents occurred, was free on bail at year's end. During the year, charges against Jorge Antonio Padilla Torres were revoked due to lack of evidence, and there was an outstanding arrest warrant for Roberto Arnaldo Erazo Paz. Manuel de Jesus Trejo Rosa was released on bail in 2000. All charges against Juan Ramon Pena Paz were dropped; he was accused wrongly because he shared the same last name as another suspect.

The case of the 1982 kidnaping of Miguel Francisco Carias was processed together with the murder of Nelson MacKay (see Section 1.c.). Carias was found alive after being detained illegally, alongside the murdered corpse of MacKay. Charges against Alexander Hernandez Santos and Manuel de Jesus Trejo Rosa were dropped, despite the fact that the MacKay/Carias case was one of the best documented cases and included witnesses. The Public Ministry appealed the judge's decision to drop the charges.

Police occasionally used force against demonstrators; in July and in October, a number of persons were injured (see Section 2.b.).

In a number of instances, the security forces actively dislodged farmers and indigenous groups who claimed lands based on land reform laws or ancestral titles to property (see Sections 1.a., 1.f., and 5). Local security forces supported local, and sometimes illegal, landowners.

The police forces are underfunded, undertrained, and understaffed, and corruption is a problem. There is widespread frustration at the inability of the security forces to prevent and control crime. Gang violence and intimidation in poor neighborhoods, kidnapings of the wealthy and well-known, and the well-founded perception that corrupt security personnel were complicit in the high crime rate led to growing support among a large segment of the general public for vigilante justice (see Section 1.a.).

The Law of the Rehabilitation of the Delinquent establishes regulations for prison conditions, including minimum conditions of sanitation and security for prisoners; however, prison conditions were harsh and prison security was poor. The Ministry of Security maintains prison facilities. Retired military officers work as guards in some areas, and some Preventive Police are used as guards. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape. Pretrial detainees generally are not separated from convicted prisoners. The 27 penal centers held over 12,500 prisoners, more than twice their maximum capacity; more than 90 percent of all prisoners were awaiting trial for an average of 22 months, with some waiting over 5 years (see Section 1.d.). During the year, the central penitentiary in the capital city was closed due to poor sanitary conditions and severe overcrowding. Prison es-

capas, through bribery or other means, remained a frequent occurrence. Prison guards shot and killed one escaping prisoner during the year. On March 19, an attempted escape at the San Pedro Sula prison left one prisoner dead and five prisoners wounded.

Prison disturbances, caused primarily by harsh conditions and intergang violence, occurred throughout the year in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. A number of gang members were killed in prison, reportedly by other gangs. In May prisoner and gang member Jesus Reyes Henriquez was found hanged in his cell; a criminal court was investigating the incident at year's end. In August gang members murdered one prisoner in the Tegucigalpa prison and two in the Choluteca prison. In August prison authorities began moving prisoners of opposing gangs into different facilities to reduce intergang tensions and violence. In December another prisoner was found hanged in his cell in San Pedro Sula. An investigation was initiated at year's end.

The Interinstitutional Committee for the Prevention and Rescue of Minors at Risk followed up on complaints made by a number of prisoners of poor treatment both before and after the attempted March escape at the San Pedro Sula prison. In June the CODEH, which works with prison populations, stated publicly that prisoners' conditions and basic liberties allowed under the law are not respected and have deteriorated during the year.

More often than not, for lack of alternative facilities, wardens housed the mentally ill and those with tuberculosis and other infectious diseases among the general prison population. In July the National University's Medical College published a study that reported a 7 percent HIV/AIDS infection rate among prisoners. Prisoners with money routinely bought private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked basic necessities, as well as legal assistance. The prison system budgets about \$0.40 (6 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits and in many cases relied on outside help to survive, as the prison system could not provide adequate or sufficient food.

In April Tela prison authorities detained a woman for suspected drug possession. According to her testimony, the woman was taken to and held naked at the prison where prison authorities performed a vaginal inspection despite the woman's assertions that she was pregnant. Medical records confirmed that she subsequently suffered a miscarriage. There was no further investigation into the incident at the end of the year.

During the year, prison authorities in Tela transferred without explanation various members of the Prisoner Defense Committees, a prisoner rights group organized with the agreement of prison authorities and CODEH. During the year, the warden of the Tela prison forbade Garifuna prisoners from speaking their native language. In July CODEH presented a complaint against the Security Ministry to the Public Ministry. The complaint alleged that these incidents represented torture and abuse of authority by the Tela prison authorities. No action had been taken by year's end.

CODEH and the Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and their Relatives continued government-funded programs to train police and prison personnel to avoid committing acts of torture, to train and rehabilitate prisoners, and to arrange for periodic inspections of prisons.

The Government continued to plan a model prison farm in the Sula Valley at a cost of \$15 million (225 million lempiras). The 1,500-bed penitentiary is scheduled to open in 2002.

Women generally were incarcerated in separate facilities under conditions similar to those of male prisoners; however, female prisoners do not have conjugal visit privileges.

The Government operates juvenile detention centers in Tamara, El Carmen, and El Hatillo; all are located in or near Tegucigalpa or San Pedro Sula. Although there is a lack of juvenile detention facilities, minors are detained infrequently in adult prisons. Casa Alianza processed some complaints during the year regarding minors held in adult prisons, but reported that the Government responded quickly to complaints and no longer routinely housed juvenile offenders in adult prisons. The Government and Casa Alianza continued negotiations under an IACHR agreement on compensatory payments to 300 juvenile offenders who served time in adult prisons from 1995 to 1999. As of October, government authorities had located 25 of the 300 juveniles. At year's end, payments were being processed for those few individuals who had been identified.

In June the Government and Casa Alianza came to a settlement in the case of Carlos Enrique Jaco, a minor who was killed by a prisoner in March 1996 while

illegally imprisoned in an adult jail in San Pedro Sula. The Government agreed to pay \$19,240 (298,320 lempiras) to Jaco's mother.

During the year, the Casa Alianza case of four minors tortured in a Choluteca prison in 1990 was advanced to the Inter-American Court of Human Rights, because the Government and Casa Alianza could not reach an amicable settlement.

The Government generally permits prison visits by independent human rights monitors. However, in June the General Director of Prisons barred all district attorneys from access to prisons. In September the criminal courts prepared a warrant for the arrest of prison directors who upheld the order, which violates the Public Ministry Law allowing lawyers access to prisons. No prison directors upheld the order.

d. Arbitrary Arrest, Detention, or Exile.—The law provides for protection against arbitrary arrest and detention; however, the authorities occasionally fail to observe these legal requirements. The law states that the police may arrest a person only with a court order, unless the arrest is made during the commission of a crime, and that they must clearly inform the person of the grounds for the arrest. The Preventive Police detain suspects and can investigate only petty crimes. The police must bring a detainee before a competent authority within 24 hours; the judge or district attorney then must issue an initial, temporary holding order within 24 hours, make an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation. Less stringent rules of detention apply when the police catch a suspect in a criminal act; in that case, the authorities may hold a suspect for up to 6 days before a temporary holding order is issued.

In February members of the police illegally detained district attorney Ledy Torres; he subsequently was released.

While bail is legally available, it is granted primarily for medical reasons; however, procedures in such cases are confused and unclear. Poor defendants, even when represented by a public defender, seldom are able to take advantage of bail (see Section 1.e.). Lengthy pretrial detention is a serious problem; a March 2000 study estimated that 92 percent of detainees were awaiting trial, some for over 5 years. The average length of detention was approximately 22 months, and over 90 percent of all prisoners neither had been tried nor sentenced (see Section 1.c.).

The 1996 Unserved Prisoner Law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. However, the antiquated criminal justice system, judicial inefficiency and corruption, and lack of resources clog the criminal system with pretrial detainees, many of whom already have served time in prison equivalent to the maximum allowable for the crime of which they were accused. In April 2000, the Government estimated that as many as 3,017 prisoners qualified for release under the Unserved Prisoner Law, that 3 officers were required to monitor each person, and that the annual cost of enforcing this law was approximately \$6.7 million (100 million lempiras). The Government already has implemented one regulation under the new Criminal Procedures Code that allows house arrest until trial of persons over the age of 60 accused of non-felony crimes, women who are pregnant or lactating, and the terminally ill.

Many prisoners remain in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. A significant number of defendants served the maximum possible sentence for the crime of which they were accused before their trials were concluded, or even begun. For example, in March the authorities released without trial a man who originally was arrested in 1990 for marijuana possession because his file was lost in an office fire, and there is no record of his charges or proceedings.

Neither the Constitution nor the Legal Code explicitly prohibits exile, but it is not used as a means of political control.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to outside influence. While the Government respects constitutional provisions in principle, implementation has been weak and uneven in practice. A number of factors limit the effectiveness of the system. Both the judiciary and the Public Ministry suffer from inadequate funding; low wages and lack of internal controls make law enforcement officials susceptible to bribery; the civil law inquisitorial system is both inefficient and opaque; and powerful special interests still exercise influence and often prevail in the courts. Approximately 35 percent of the complaints received by the National Human Rights Commission concern the judicial system. Many elected politicians enjoy constitutional immunity due to the privilege of their office.

The existing court system is composed of a 9-member Supreme Court, 10 appeals courts, 67 courts of first instance with general jurisdiction, and 325 justice of the peace courts with limited jurisdiction. Previously Congress elected the nine Supreme Court justices and named the president of the court; the Supreme Court, in turn, names all lower court judges. The 4-year term for justices of the Supreme Court coincided with those of the Congress and the President. In April Congress ratified a constitutional amendment to restructure the Supreme Court and create an independent judiciary. In September Congress passed the Supreme Court Nomination Law, which codifies the amendment. The new law provides for a participatory process in which 5 representatives of civil society (one representative each from labor unions, employer associations, civil society, the bar association, and the human rights ombudsman) are to choose nominees for the Supreme Court, from which Congress selects 15 Supreme Court justices and names the president of the court for 7-year terms. The Supreme Court, in turn, names all lower court judges. The new legislation removes the responsibility for the selection of the Supreme Court from the President. Human rights groups noted that the law may help to depoliticize Supreme Court appointments. In October the nominating committee was convened to choose 45 candidates for the Supreme Court. At year's end, the nominating committee had received more than 200 nominations and was reviewing applicants' qualifications.

The Constitution provides for the right to a fair trial; however, the written, inquisitorial trial system is labor-intensive, slow, opaque, and does not protect the rights of defendants adequately.

In May 2000, a new Criminal Procedures Code became law; implementation of the new Code continued during the year. The Criminal Procedures Code is scheduled to take full effect in February 2002, at which time an oral, accusatorial system of criminal prosecution is to replace the written, inquisitorial system. Trials are to be oral rather than written, decided on by three judges, one at each stage of the trial, rather than one, and proceedings are to be open to the public. The new system allows for plea bargaining, and for all indigent suspects to be appointed legal counsel. The government authorities involved in the criminal justice system trained throughout the year to prepare for the transition.

The new law is designed to change the code into one based upon the presumption of innocence, the right to a public trial, and respect for the dignity and liberty of the accused. It also expressly prohibits incarceration without first receiving an order or a sentence from a judge or tribunal.

Judges legally are in charge of investigations, as well as of trials and sentencing. Under the 1984 Code of Criminal Procedures, judges, the police, public officials, and individual citizens can initiate criminal proceedings. As many as 80 percent of the cases reported to the police never are referred to the criminal justice system but instead are settled administratively by the police or by municipal courts. A judge may detain an accused person for 6 days before a determination is made of probable cause to accept charges. If a judge sustains the criminal accusation, the accused remains in jail, or may be released on bail while awaiting trial (see Section 1.d.). The role of the Public Attorney's office is not well defined under the present law; however, under the February 2002 revisions, the Public Attorney's office, along with the investigative police, has authority over investigations.

An accused person has the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. Although the Constitution recognizes the presumption of innocence, the existing criminal code in practice often is administered by poorly trained judges operating on a presumption of guilt; consequently, the rights of defendants often are not observed. All stages of the trial process are conducted in writing and, at the judge's discretion, may be declared secret and, thus, even less "public" than normal. All trials are to be public under the new Criminal Procedures Code.

Defendants and their attorneys are not always genuine participants in the process, despite rights accorded under law. Defendants may confront witnesses against them and present evidence on their own behalf, but only through the judge. By law defendants and their attorneys are entitled to review government-held evidence relevant to their cases, but this right is not always respected in practice. The new Criminal Procedures Code provides defendants with additional rights that reduce their likelihood of being detained, which some critics warn may reduce the conviction rate of hardened criminals.

A public defender program provides assistance to those unable to afford an adequate defense. There are 164 public defenders providing free legal services nationally to 37 percent of the prison population; however, it is difficult for public defenders to meet the heavy demands of an unautomated, inadequately funded, and labor-intensive criminal justice system. With the planned revisions to the Criminal Proce-

dures Code in 2002, there is expected to be far greater demand for public defenders, since the new law allows cases to be dismissed if a suspect does not have legal representation.

A 1998 Supreme Court instruction holds judges personally accountable for reducing the number of backlogged cases. The order separates judges into pretrial investigative judges and trial and sentencing judges. The Court also created a program to monitor and enforce compliance with these measures. The Court's instruction was intended to ensure more effective protection for the rights of the accused to a timely and effective defense, but it has had little effect. Under the new Criminal Procedures Code the purpose of plea-bargaining is expected to reduce the caseload and to prioritize serious crimes for prosecution.

Modest progress was made in previous years toward implementing a judicial career system to enhance the qualifications of sitting judges; depoliticize the appointment process; and address problems of corruption, clientism, patronage, and influence-peddling within the judiciary. Nonetheless, many courts remain staffed by politically selected judges and by unqualified clerks who are inefficient and subject to influence from special interests. The reforms have not been implemented fully or effectively. Public accountability or official sanction for misconduct is minimal. However, the Supreme Court dismissed more than 12 judges on various charges, including corruption, during the year.

A special prosecutor investigating the 1998 murder of a town councilman reported receiving death threats (see Section 1.a.).

Elements of the armed forces withheld their cooperation from official efforts to track down military officers wanted in connection with alleged human rights abuses dating back to the 1980's (see Sections 1.a., 1.b., and 1.c.). The Supreme Court had considered whether legal amnesties adopted in 1987, 1990, and 1991 for crimes committed during the 1980's covered the military, as political deliberations in the Congress suggested. In 1998 the Court determined that while the amnesty laws were constitutional, amnesty appeals would have to be decided on their individual merits. In June 2000, the Court first ruled that laws providing amnesty protection to present and former military officials were inapplicable to common crimes, such as illegal detention and homicide, which some officials were alleged to have committed. In August 2000, the court clarified its June ruling by applying it only to the specific case (the 1982 kidnaping and torture of six university students) under consideration (see Section 1.c.). It held that the amnesty laws would continue to apply to all military defendants until specific grounds for exclusion of amnesty were applied in that case. Thus, military officials may benefit from the amnesty laws, but the Public Ministry has the right to challenge the applicability of those laws to specific investigations of past human rights abuses.

The Constitution provides broad immunity to members of Congress and government officials. Membership in both the National Congress and the Central American Parliament confers legal immunity from prosecution. That immunity extends to candidates running for office and to acts committed before taking office. In April 2000, Congress passed a General Law of Immunities that, contrary to the public expectations, did little to foster transparency and accountability in government. In fact, the new law requires that cases of white-collar crime brought against public officials with immunity first must be adjudicated through administrative procedures before any criminal proceedings are initiated. In addition, the new law bestows immunity to citizens upon party nomination to run for public office. The law continues to require a vote of Congress to deprive an individual of his or her immunity, although such individual may be arrested if caught in the act of endangering the life or physical integrity of another.

Over the past 7 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also recently retired heads of the armed forces for corruption, illicit enrichment, and white collar crimes, as well as ranking officials of the two previous governments for abuses of power, fraud, and diversion of public funds and resources. However, at year's end, very few of those accused had been tried or convicted. Some of these individuals maintain immunity from prosecution because they are in elected office or are running for office.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution specifies that a person's home is inviolable, that persons employed by the State may enter only with the owner's consent or with the prior authorization of a competent legal authority, and that entry may take place only between 6 a.m. and 6 p.m. There is an exception that allows entry at any time in the event of an emergency or to prevent the commission of a crime. However, as in previous years, there were credible charges that police personnel failed at times to obtain the need-

ed authorization before entering a private home. Coordination among the police, the courts, and the Public Ministry remained weak.

In a number of instances, the security forces actively dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (see Section 5). Since January, private security guards, with support from regional police, have blocked access to farmland for villages surrounding Gualaco, Olancho department in a local conflict over development of an energy project, which led to the murder of one farmer activist (see Section 1.a.). In June an estimated 400 farmer families occupied national land that had been sold illegally to others in the Trujillo, Colon area. The families received threats from security forces allied with the illegal landowners until central government authorities interceded. In August the preventive police dislodged 1,000 Afro-Caribbean, also called Garifuna, residents near Sambo Creek, Colon, with tear gas during a land dispute with a local landowner. A number of farm cooperatives experience constant threats of dislocation from local police and military authorities who support local landowners. Some individuals who lose disputed lands to farmer cooperatives as a result of government adjudication at times act with impunity and kill cooperative leaders (see Section 1.a.).

In June the Committee of Families of the Disappeared (COFADEH) accused security forces of arbitrarily monitoring private communications and movements of activists because of their support for farmers protesting an energy project in Gualaco, Olancho department.

The Government generally respects the privacy of correspondence.

Despite reforms to the civil service system, party membership is often necessary to obtain or retain government employment.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice, with some important exceptions. In March the IACHR reported that the Government impedes public criticism of government actions. Some journalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners. A small number of powerful business magnates whose business interests, political loyalties, and family ties often intersect own many news media. Systemic national problems, such as corruption and endemic conflicts of interest, also limit the development of the news media. For example, one of the four national newspapers is run by a recent presidential candidate and another is run by President Flores. Reporting of events, particularly those related to elections, is subject to editorializing.

The Government has various means to influence news reporting of its activities, such as the granting or denial of access to government officials, which is crucial for news reporters, editors, and media owners. Other methods are more subtle, such as the coveted privilege to accompany the President on his official travels. Journalists who accompany the President on such occasions do so at the expense of the Government, which grants or withholds invitations for such travel at will. The Government also has considerable influence on the print media through its ability to grant or withhold official advertisements funded with public monies. President Flores wielded considerable influence on the print media with his ownership of La Tribuna, the leading newspaper in the capital of Tegucigalpa. La Tribuna was founded by the late father of the President and still is run by his family. It competes directly with rival publications for scarce revenues from advertising, much of which comes from the Government itself.

The comparatively little investigative journalism that took place focused on non-controversial issues. When the news media attempted to report in depth on national politicians or official corruption, they continued to face obstacles, such as external pressures to desist from their investigations, artificially tight reporting deadlines, and a lack of access to Government information and independent sources.

The news media also continued to suffer from internal corruption, politicization, and outside influences. Payments to journalists to investigate or suppress certain stories continued, although no individual journalist was accused publicly of engaging in the practice. News directors and editors acknowledged their inability to halt the practice, given their own workloads and the difficulty of discovering why a given reporter opted to emphasize one aspect of a story over another, or why a particular name was omitted from a list of suspects to be made public.

The executive branch limited its use of the “Cadena Nacional,” a complete pre-emption of all television and radio broadcasting, compared to previous years. Originally designed to transmit critical information during an emergency or crisis, the

Cadena Nacional is used primarily to promote the accomplishments of the Government.

One potentially abusive practice continued to be the granting of awards to individual reporters on "Journalists' Day." In May all three branches of the Government and several private organizations, including chambers of commerce, bestowed numerous awards, some accompanied by substantial sums of cash, on the "best" journalists. Rather than being tied to a specific accomplishment—a particular article or series, or even a lifetime's body of work—most awards were granted without any published criteria to beat reporters assigned to the granting institution. Some of these awards appeared to be deserved; however, many observers viewed them as little more than acknowledgments by the granting institutions of perceived services rendered.

Numerous reported attempts by government officials and unidentified assailants to intimidate journalists in 2000 increasingly led both local and foreign observers to call into question the ability of the news media to report freely on sensitive topics. While newspapers circulate freely, and a number of radio and television stations broadcast freely, there are credible reports of media owners' repression against individual journalists who criticize the Government, actively criticize freedom of the press, or otherwise report on issues sensitive to powerful interests in the country.

According to Amnesty International and national human rights groups, in April Thelma Mejia was forced to resign as editor of *El Herald*, allegedly for participating in a delegation to the Special Rapporteur on Freedom of Expression at the Organization of American States (OAS). In May Manuel Torres Calderon was dismissed as editorial page editor of the same newspaper, as was Roger Argueta, both ostensibly for differences of opinion with the newspaper owner. Both journalists expressed public support for Thelma Mejia. In April Channel 63 television reporter Cesar Omar Silva was dismissed, allegedly for his critical reporting on the television owners' advertisers. In June Channel 13 news reporter Jorge Lopez was dismissed, allegedly for reporting on a bank scandal in the print media. In October a number of Channel 63 reporters were given 2 months notice of dismissal. Felix Molina, who also gave testimony to the OAS Rapporteur on Freedom of Expression, was one of those reporters.

VICA television journalist Dolores Valenzuela reported receiving death threats as a result of her report on illegal logging in Olancho.

In September an Inter-American Press Association (IAPA) delegation met with the President to discuss IAPA concerns about language in a crime bill before Congress that would limit journalists' ability to keep their sources confidential.

Television reporter Allan Montenegro is suing the Security Ministry over the loss of an eye in an unprovoked altercation with a police officer in 2000. No action has been taken in the 2000 drive-by shooting of Radio Progreso news director Julio Cesar Pineda Alvarado, who suffered a head wound in the attack.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respects this right in practice; however, police used force to disperse several protests, resulting in one death and a number of injuries.

In July Preventive Police disrupted peaceful protests by persons from Gualaco, Olancho (see Section 1.f.), and 200–300 members of the Committee of Popular Organizations and Indigenous (COPIN), who joined them to protest hydroelectric projects in their respective communities, in front of the National Congress. The police forcibly dislodged peaceful protesters with billy clubs, tear gas, and water hoses (see Section 4). They injured 30 protesters and detained 13 who later were freed. The police detained COPIN members at a number of checkpoints in an effort to delay their entry into Tegucigalpa. No charges have been filed against Security Minister Gautama Fonseca for a similar detention of COPIN members in 2000.

During the year, incidents in which farmers or local populations took over roadways in Colon, Olancho, and Choluteca met with police resistance. Police used tear gas and riot troops to clear roadways, killing one person in November and injuring a number of persons in each incident (see Section 1.a.).

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for all forms of religious expression, and the Government generally respects this right in practice. The dominant religion, Catholicism, does not affect adversely the religious freedom of others. The Government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

In September 2000, Congress adopted a controversial measure requiring that, beginning in 2001, all school classes begin with 10 minutes of readings from the Bible.

Parents who do not want their children to listen to the readings may notify school authorities in writing. The Education Ministry, in consultation with Christian churches, was to establish procedures to select readings, plan their implementation, and promote their distribution. However, the law had not been implemented by year's end. The constitutionality of the law was questioned by some legal scholars, and doubts were raised regarding its eventual implementation.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Citizens enter and exit the country without arbitrary impediment, and the Government does not restrict travel within the country's borders.

The Government cooperates with the U.N. High Commissioner for Refugees, the International Office of Migrations, and other humanitarian organizations in assisting refugees. The Government provides first asylum and grants asylum or refugee status in accordance with the terms of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections were held on November 25.

Citizens choose a president, three vice presidents, and members of the National Congress by free, secret, and direct, balloting every 4 years. In 1997 voters for the first time were able to cast separate ballots for the President, Congresspersons, and mayors, making individual elected officials more representative and accountable. Suffrage is universal; however, neither the clergy nor members of the military or civilian security forces are permitted to vote. During the year, voting was expanded to include Hondurans resident in five cities in the United States. After extended debate between Liberals and Nationalists over the extent and organization of voting abroad, the parties agreed to limit voting to the five U.S. cities with the greatest population of Hondurans, due to both budget and logistic considerations. Of 10,000 Hondurans who registered to vote abroad, slightly more than 1,000 voted. Any citizen born in Honduras or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police.

On November 25, voters elected Ricardo Maduro of the Nationalist Party President in elections that domestic and international observers judged to be generally free and fair. Maduro defeated Liberal candidate Rafael Pineda Ponce, the President of Congress. Maduro received approximately 52.2 percent of the vote, and Pineda Ponce approximately 44.3 percent. The remaining three parties received 3.5 percent of the vote. In the Congressional elections, neither major party won a majority. Of 128 seats, 61 went to the National Party, 55 to the Liberal Party, 5 to the Democratic Unity Party, 4 to the Christian Democratic Party, and 3 to the Innovation and National Unification Party. This was the first time in the country's electoral history that the President's party did not enjoy an outright majority in Congress.

After a major political conflict during the 2000 primaries in which the Liberals challenged the National Party presidential contender Ricardo Maduro for not being a "Honduran by birth," the Congress interpreted constitutional provisions on citizenship by birth, which allowed Maduro's candidacy. (Maduro was born in Panama of a Panamanian father and a Guatemalan mother, but Maduro and his mother both received official documentation of Honduran citizenship in the 1980's, through Maduro's Honduran maternal grandmother. Since that time, Maduro served as President of the Central Bank, a position that requires "Honduran by birth" nationality.)

There was some election violence leading up to the November elections. On November 23, a Nationalist Party congressional candidate from Valle department was killed; the initial suspects were from the Liberal Party (see Section 1.a.). The District Attorney continued the investigation at year's end. On November 24, gunmen shot at the Liberal Party headquarters in San Pedro Sula late in the evening, but no one was in the headquarters and no one was injured. No one has been identified in the shooting.

A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments. Each signature must be notarized on separate sheets of government stationery, each of which costs approximately \$9 (150 lempiras). There are five recognized parties, including the Democratic Unification Party, which was accepted as a legal party in

June. A sixth party, PUEBLO-H, attempted to register a presidential candidate but was unable to raise sufficient funds to pay for the government stationery. In October PUEBLO-H attempted to register four independent mayoral candidates, but the Government election authorities said that the party had not provided them with information in sufficient time for the registration to be reviewed before the election.

There are no legal impediments to the participation of women or minorities in government and politics; however, their percentages in government and politics do not correspond to their percentages of the population. Prior to the November elections, women held 12 of 128 seats in the National Congress and 2 of 20 Honduran seats in the Central American Parliament. In the November elections, voters elected women to 5 seats in the National Congress and 3 seats in the Central American Parliament. The Government established the National Women's Institute a number of years ago to address women's issues. There is one female justice on the Supreme Court. During the year, six female ministers served on President Flores's cabinet.

The 2000 Law of Gender Equality mandated that 30 percent of all candidates nominated for public office by recognized political parties be women. The National Party candidates for mayorships in the general elections fulfilled this requirement. None of the parties fulfilled this requirement for congressional positions, even though the political party leadership exercises the right to change congressional and even mayoral candidates after the primaries. Members of Congress are voted from party lists and not directly, and the central party committee makes the decision on the candidates for each department. Congresswomen and women's groups strongly criticized all five parties for their lack of female representation in the congressional slates after the results of the November elections.

There are few indigenous people in leadership positions in government or politics. There are three members of Congress who state that they are indigenous or Garifuna (Afro-Caribbean).

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperate with these groups and are responsive to their views.

In June human rights groups accused security forces of arbitrarily monitoring private communications and movements of activists (see Section 1.f.).

The human rights group COFADEH received death threats against its staff during the year.

In July the authorities brought charges of disruption, disobedience, and exceeding constitutional rights against 21 human rights workers following a police action in front of the National Congress in which police forcibly dislodged peaceful protesters with billy clubs, tear gas, and water hoses (see Section 2.b.). Many of the human rights workers were observers and some of the accused were not physically present at the demonstration. By year's end, no arrest warrants had been issued.

In August the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions visited the country to meet with government, human rights, and children's organizations (see Section 1.a.).

In 1996 the Congress ratified a presidential decree expanding the functions of the National Human Rights Commission (NHRC) and unanimously reelected Leo Valladares to a 6-year term that is scheduled to expire on March 5, 2002. Under this decree, and in fulfillment of his expanded functions, the NHRC director has free access to all civilian and military institutions and detention centers, and is supposed to perform his functions with complete immunity and autonomy.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution bans discrimination based on race or sex. The Constitution also bans discrimination on the basis of class; however, in practice, the political, military, and social elites generally enjoyed impunity under the legal system. Members of these groups rarely were arrested or jailed; the President, cabinet ministers, and legislators all enjoy legal immunity (see Section 1.e.).

Women.—Violence against women remained widespread. The Penal Code classifies domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively. In February 2000, the Pan-American Health Organization reported that 60 percent of women have been victims of domestic violence. In September 2000, the U.N. Population Fund estimated that 8 of every 10 women suffer from domestic violence.

The Public Ministry reported that in Tegucigalpa, which has a population of 297,000 women, 12 women were killed as a result of domestic violence during the

year. Over the year, the Public Ministry reported that it receives an average of 341 allegations of domestic violence each month only in the capital city of Tegucigalpa.

The 1997 Law Against Domestic Violence strengthened the rights of women and increased the penalties for crimes of domestic violence. This law allows the Government to protect battered women through emergency measures, such as detaining an aggressor or separating him temporarily from the victim's home. It also imposes such penalties as a fine of \$322 (5,000 lempiras) and 4 years' imprisonment per incident. During the year, many cases were resolved because the Government began to fund special courts to hear only cases of domestic violence.

The Government works with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence. There are few shelters specifically for battered women. The Government operates 1 shelter that can accommodate 10 women and their families. Six private centers for battered women offer legal, medical, and psychological assistance, but not physical shelter.

The penalties for rape are relatively light, ranging from 3 to 9 years' imprisonment. All rapes are considered public crimes, so a rapist can be prosecuted even if he marries his victim.

The law does not prohibit prostitution; however, it prohibits promoting or facilitating the prostitution of adults.

Women are trafficked for sexual exploitation and debt bondage (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Women, who make up 36 percent of the work force, were represented in at least small numbers in most professions, but cultural attitudes limit their career opportunities. Under the law, women have equal access to educational opportunities; however, family pressures often impede the ambitions of girls who wish to attend high school. The law requires employers to pay women equal wages for equivalent work, but employers often classify women's jobs as less demanding than those of men to justify paying them lower salaries. The Inter-Institutional Technical Committee on Gender supported gender units in six government ministries, and there is a special working women's division in the Ministry of Labor to coordinate government assistance programs that have a gender focus and that are targeted for women.

Workers in the textile export industries reported they were required to take pre-employment pregnancy tests (see Section 6.e.).

In October a national group of women's organizations developed a document called "Minimum Agenda for Women," which all of the presidential candidates signed. The agenda identified problems of discrimination in work (especially for domestic workers), politics, and land access; problems of domestic violence; and lack of access to education and health services.

The Government has established the National Women's Institute to address women's issues (see Section 3).

Children.—Although the Government allocated 9.6 percent of its total expenditures for the year to basic education, this was insufficient to address the educational needs of the country's youth. The Government provides free, universal, and compulsory education through the age of 13; however, the Government estimated that as many as 65,000 children ages 6 through 12 fail to receive schooling of any kind each year, either due to insufficient financial resources, or because parents rely on their children to assist in supporting the family by working (see Section 6.d.). Girls attend primary school in the same proportion as boys; however, family pressures often impede the ambitions of girls who wish to attend high school. The Government increased its national school capacity by approximately 50,000 children during the year.

The Government allocated 10.7 percent of total government expenditure to the health sector. Media reports indicated that up to 40 percent of children under the age of 5 years suffer from chronic malnutrition. The Government estimated that 7,000 children (40 of every 1,000) under age 5 die each year because of inadequate health care. The Health Ministry's 2000–2002 campaign to reduce infant mortality by 25 percent was slowed down by labor strikes in the health sector (see Section 6.a.).

The 1996 Code of Childhood and Adolescence covers the rights, liberties, and protection of children. It established prison sentences of up to 3 years for persons convicted of child abuse. In the two major cities of San Pedro Sula and Tegucigalpa, with a combined population of 682,400 minors, a total of 2,500 complaints of child abuse were taken by the Public Ministry.

Child prostitution is a problem in some tourist areas of the country.

Child labor is a problem (see Section 6.d.).

Trafficking in children is a problem (see Section 6.f.).

The Government was unable to improve the living conditions or reduce the numbers of street children and youth (see Sections 1.a. and 1.c.). The Government and children's rights organizations estimate the number of street children at 10,000, only half of whom have shelter on any given day. The number of street children has increased substantially since 1998, due to Hurricane Mitch. Many street children have been sexually molested or exploited, and about 40 percent regularly engaged in prostitution. Approximately 30 percent of the street children and youth in Tegucigalpa and San Pedro Sula, the two largest population centers, were reported to be HIV-positive. Over 75 percent of street children live on the streets because of severe family problems; 30 percent simply were abandoned. The Tegucigalpa city administration runs 12 temporary shelters with a total capacity of 240 children. The 2000 Government plan to open a 24-hour Street Child Attention Center in Tegucigalpa had not been implemented at year's end.

Abuse of youth and children in poor neighborhoods and in gangs is a serious problem. Both the police and members of the general population engaged in violence against poor youth and children; some of these children were involved in criminal activities, but many were not (see Sections 1.a. and 1.c.). At least 603 homicide cases of children and youth, only some of whom lived on the street, were killed in "social cleansing" killings between January 1998 and May; police were found to be responsible for some of the killings (see Section 1.a.). Security authorities' abuse of street children decreased significantly in the late 1990's after Casa Alianza trained the Preventive Police on treatment of children and youth for 2 years; it is still a problem, although the situation has improved significantly. Casa Alianza continues to train police recruits at the National Police Academy in La Paz department.

International and national human rights groups implicated out-of-uniform security force personnel, vigilantes, and business leaders in many juvenile deaths (see Section 1.a.).

Persons with Disabilities.—There are no formal barriers to participation by an estimated 700,000 persons with disabilities in employment, education, or health care; however, there is no specific statutory or constitutional protection for them. There is no legislation that requires access by persons with disabilities to government buildings or commercial establishments. In 2000 the Government reactivated the National Council for the Treatment of the Disabled Minor to coordinate assistance to youths with disabilities and appropriated about \$1.3 million (20 million lempiras) to fund its activities. In September the National University initiated the first classes to train sign language interpreters in Honduran Sign Language.

Indigenous People.—Some 450,000 persons, constituting 11 percent of the general population, are members of various indigenous groups. These small communities of indigenous people have little or no ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous land rights are communal. While the law permits persons to claim individual freeholding titles, this is difficult to accomplish in practice. Indigenous and ancestral lands often are defined poorly in documents dating back to the mid-19th century and, in most cases, lack any legal title based on modern cadastral surveys. The Government makes all decisions regarding exploitation of timber resources on indigenous lands, often over strenuous objections of the indigenous community.

The lack of clear title by indigenous groups to the public lands that they occupy often leads to conflicts between such groups and various government entities (see Sections 1.a. and 1.f.). In March, eight members of the Lenca indigenous group sought political asylum in the Venezuelan Embassy in Tegucigalpa after they were threatened with arrest over a land dispute. Another group of Lencas staged a protest outside the Supreme Court to press for the release of a jailed colleague. In August police used tear gas to dislodge 1,000 members of an Afro-Caribbean town from a plot of land that they claimed. However, such disputes are equally common between the Government and nonindigenous groups, and the Government is working with various indigenous groups on management plans for public and ancestral lands that they occupy. In the absence of clear land titles and unequal access to legal recourse, indigenous groups also are vulnerable to frequent usurpation of their property rights by nonindigenous farmers and cattle ranchers. Expanded coverage of the national cadastral registry, property titling, and government land registries is reducing this vulnerability.

The courts commonly deny legal recourse to indigenous groups and often show bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently causes indigenous groups to attempt to regain land through invasions of private property, which usually provoke the authorities into retaliating forcefully. The Government generally is responsive to indigenous land claims; however, numerous cases remained unresolved because of conflicting claims by influential nonindigenous groups.

In 1997 after a month of nationwide protests by indigenous organizations that included a hunger strike, the Government signed a 22-point agreement with representatives of various groups that made available 9 initial land grants of about 22,000 acres each to different tribes, granted some contested land titles outright to indigenous petitioners, and set aside government funds for indigenous housing. The Congress also created a commission to study indigenous land claims, which often conflict with the claims of small farmers, but the commission was largely inactive. Since 1997 the Government has distributed tens of thousands of legal titles encompassing hundreds of thousands of acres of land to indigenous persons. During the year, the National Agrarian Reform Institute transferred 40,000 hectares (98,840 acres) of land to Afro-Caribbean and indigenous groups who had ancestral rights to a large share of disputed land. Indigenous groups continued to charge that the Government had failed to fulfill its commitments under the 1997 agreement.

During the year, the warden of the Tela prison forbade Garifuna prisoners from speaking their native language (see Section 1.c.).

Section 6. Worker Rights

a. The Right of Association.—Workers have the legal right to form and join labor unions; unions generally are independent of the Government and of political parties. Most peasant organizations are affiliated directly with the labor movement. Unions occasionally hold public demonstrations against government policies and make extensive use of the news media to advance their views. However, only about 14 percent of the work force is unionized, and the economic and political influence of organized labor has diminished in the past several years. In June the International Labor Organization (ILO) criticized legal restrictions on the ability of unions to federate domestically and recommended that the Government amend its legislation to ensure workers the right to form and join organizations of their own choosing. The ILO notes that various provisions in the law restrict freedom of association, including the prohibition of more than 1 trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, and the requirement that trade union organizations must include more than 90 percent Honduran membership.

The labor movement is composed of three national labor organizations: the General Council of Workers (CGT), the Confederation of Honduran Workers (CTH), and the Unitary Confederation of Honduran Workers (CUTH).

The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities generally respect in practice. The civil service code denies the right to strike to all government workers, other than employees of state-owned enterprises. Nonetheless, civil servants often engage in illegal work stoppages without experiencing reprisals. The ILO has reported that federations and confederations are prohibited from calling strikes, and that a two-thirds majority of the votes of the total membership of the trade union organization is required to call a strike; the ILO asserts that these requirements restrict freedom of association.

The public sector held pervasive and long-lasting strikes throughout the year. Both teachers and public health workers were on strike for more than 2 months demanding back pay, improved working conditions, and salary raises.

A number of private firms have instituted "solidarity" associations, essentially aimed at providing credit and other services to workers and managers who are members of the associations. Representatives of most organized labor groups criticize these associations, asserting that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are employer-dominated.

In March the Popular Bloc ("Bloque Popular"), a group of dissident members of some 40 labor, peasant, and social organizations held a number of demonstrations to bring the Government, the private sector, and organized labor to the bargaining table to negotiate increases in contributions to the social security system. In December a tripartite committee of government, labor, and employers was convened to begin negotiations over a new minimum wage (see Section 6.e.).

The three national labor confederations maintain close ties with various international trade union organizations.

b. The Right to Organize and Bargain Collectively.—The law protects the rights to organize and to bargain collectively. The Labor Code prohibits retribution by employers for trade union activity; however, it is a common occurrence. Some employers have threatened to close down unionized companies and have harassed workers seeking to unionize, in some cases dismissing them outright. Some foreign companies close operations when they are notified that workers seek union representation; two such cases occurred during the year. The labor courts routinely consider hundreds of appeals from workers seeking reinstatement and back wages from compa-

nies that fired them for engaging in union organizing activities. Once a union is recognized, employers actually dismiss relatively few workers for union activity. However, the right of collective bargaining is not granted easily, even once a union is recognized. Cases of firings and harassment serve to discourage workers elsewhere from attempting to organize.

Workers in both unionized and nonunionized companies are protected by the Labor Code, which gives them the right to seek redress from the Ministry of Labor. The Ministry of Labor applied the law in several cases, pressuring employers to observe the code. Labor or civil courts can require employers to rehire employees fired for union activity, but such rulings are uncommon. Collective bargaining agreements between management and unions generally contain a clause prohibiting retaliation against any worker who participates in a strike or other union activity.

The Labor Code explicitly prohibits blacklisting; however, there was credible evidence that informal blacklisting occurred in the privately owned industrial parks, known as maquiladoras. When a union is formed, its organizers must submit a list of initial members to the Ministry of Labor as part of the process of obtaining official recognition. However, before official recognition is granted, the Ministry of Labor must inform the company of the impending union organization. The Ministry of Labor has not always been able to provide effective protection to labor organizers. During the year the Ministry of Labor improved its administrative procedures to reduce unethical behavior of its officials regarding union organizing. There were fewer reports of inspectors selling the names of employees involved in forming a union to the management of the company compared with previous years.

The same labor regulations apply in the export processing zones (EPZ's) as in the rest of private industry. There are approximately 20 EPZ's. Each EPZ provides space for between 4 and 10 companies. There are approximately 200 export oriented assembly manufacturing firms located inside and outside of EPZ's. Unions represent workers in the factories located in the government-owned Puerto Cortes free trade zone (6 of 10 export assembly manufacturing firms, or maquiladoras, there are unionized); factory owners resist efforts to organize their companies in the privately owned industrial parks. The Honduran Association of Maquiladores (AHM) routinely sponsors seminars and other meetings between its members and major labor groups in order to reduce potential tensions within the industry. At year's end, 45 of the country's 200 maquiladoras were unionized.

In 1997 the AHM adopted a voluntary code of conduct governing salaries and working conditions in the industry and recognizing workers' right to organize. Members of AHM, both industrial park owners and company owners, are asked to sign the code of conduct to join the AHM; however, workers do not receive training on its provisions. The conditions are not monitored or verified by the AHM, but the AHM does act as arbiter when unions, the Ministry of Labor, or other partners complain about labor conditions in a factory. Workers are not trained on the elements of this code. The code provided a starting point for a dialog among the AHM, organized labor, and the Government, which formed a Tripartite Commission that meets on a regular basis to discuss and facilitate solutions for labor problems. The AHM often serves as an informal arbiter of labor disputes between its member companies and their workforces. The attitude of the Government toward organized labor in the EPZ's is the same as in other industries.

In the absence of unions and collective bargaining, the management of several plants in free trade zones have instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Others use the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria (see Section 6.e.).

Labor leaders accuse the Government of allowing private companies to act contrary to the Labor Code. They criticize the Ministry of Labor for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Industry leaders, in turn, contend that the obsolete and cumbersome Labor Code discourages foreign investment and requires significant amendment. The Ministry of Labor sought to address these deficiencies by requesting increased funding in the Government's budget, by dismissing or transferring Ministry of Labor employees whose performance was unsatisfactory, by opening more regional offices to facilitate worker access to Ministry of Labor services, and by conducting a painstaking, ongoing review of the Labor Code. In September the Ministry of Labor opened a special maquiladora office and an office for female workers.

A 1995 Memorandum of Understanding (MOU) between the Ministry of Labor and the Office of the United States Trade Representative calling for greater enforce-

ment of the Labor Code has resulted in some progress. However, labor unions charge that the Ministry of Labor has not made sufficient progress toward enforcing the Code, especially in training its labor inspectors and in conducting inspections of the maquiladora industry. The Government has acknowledged that it does not yet adhere completely to international labor standards. In 1997 the country, in conjunction with other Central American nations, agreed to fund a regional program to modernize the inspection and labor management functions of all regional labor ministries. In August and September 2000, the Government reaffirmed its commitment to abide by the terms of the 1995 MOU and to take additional steps to strengthen enforcement of the Labor Code.

Union formation and contract negotiation can take an extremely long time. For example, in July 1999, workers at Yoo Yang, a South Korean-owned maquiladora, sought to establish a union for all maquiladora workers. In December 2000, the Ministry of Labor granted union status to Yoo Yang employees. During the year, management and workers were engaged in contract negotiations for 9 months, with the intervention of Ministry of Labor mediators. A contract was agreed to and signed in December. In June the ILO criticized the Government's restriction on workers' right to organize. The ILO noted that in this case there was a lack of evidence to make a judgement but stated that if the rejection of this request and delay of registration was based on formalities or if prohibitive administrative requirements were imposed, then the right to organize was violated.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and the law prohibit forced or compulsory labor; however, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who make up an estimated 80 percent of the work force in the maquiladora sector. The legal prohibitions apply equally to children; however, trafficking in children is a problem (see Section 6.f.). Women are trafficked for sexual exploitation and debt bondage (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution and the Labor Code prohibit the employment of minors under the age of 16, except that a child who is 15 years of age is permitted to work with parental and Ministry of Labor permission; however, child labor is a problem. According to the Ministry of Labor, human rights groups, and children's rights organizations, an estimated 350,000 children work illegally. The Children's Code prohibits a child of 14 years of age or younger from working, even with parental permission, and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally. An employer who legally hires a 15-year-old must certify that the child has finished, or is finishing, his compulsory schooling. The Ministry of Labor grants a limited number of work permits to 15-year-old children each year.

The Ministry of Labor does not enforce effectively child labor laws outside the maquiladora sector. Violations of the Labor Code occur frequently in rural areas and in small companies. Significant child labor problems exist in family farming, agricultural export (including the melon and coffee industries), and small scale services and commerce. A May household survey reported that 9.2 percent of children between ages 5 and 15 were working, and that 26 percent of children ages 11 through 15 work. Many children also work in the construction industry, on family farms, as street vendors, or in small workshops to supplement the family income. Boys between the ages of 13 and 18 work on lobster boats, where they dive illegally with little safety or health protection. Children who work on melon farms were exposed to pesticides and long hours. Hurricane Mitch exacerbated existing child labor problems in every sector of the economy.

The employment of children under the legal working age in the maquiladora sector may occur, but not on a large scale. (Younger children sometimes obtain legitimate work permits by fraud or purchase forged permits.) During the year, one foreign firm in the maquiladora sector was reported to employ minors, and the Ministry of Labor took action to penalize the employer and assure that minors no longer work at the plant. The maquiladoras have raised their minimum employment age, and some hire only at age 18 or above, reducing the number of legal job opportunities available to persons under 18 years of age.

In 1998 the Government created the National Commission for the Gradual and Progressive Eradication of Child Labor, which includes government ministries, official family welfare agencies, and local NGO's. In May the Congress ratified the ILO Convention 182 on the worst forms of child labor, which became law a month later. In September the employers' association launched a campaign to raise awareness of the law among its members. In September the regional ILO Office on the Eradication of Child Labor director visited the country and met with the various groups and officials working on child labor to coordinate programs focused on the eradication of the worst forms of child labor.

Forced or compulsory labor is prohibited, including that performed by children; however, trafficking in children is a problem (see Sections 6.c. and 6.f.).

e. Acceptable Conditions of Work.—Minimum wages that were established in 2000 and went into effect during the year apply to all sectors of the economy. Daily pay rates vary by geographic zone and the sector of the economy affected; urban workers earn slightly more than workers in the countryside. The lowest minimum wage occurs in the nonexport agricultural sector, where it ranges from \$2.25 to \$3.19 (35.00 to 49.50 lempiras) per day, depending on whether the employer has more than 15 employees. The highest minimum wage is \$4.08 (63.30 lempiras) per day in the export sector. All workers are entitled to an additional month's salary in June and December of each year. The Constitution and the Labor Code stipulate that all labor must be paid fairly; however, the Ministry of Labor lacks the personnel and other resources for effective enforcement. The minimum wage is insufficient to provide a decent standard of living (above the poverty line) for a worker and family. In December a tripartite committee of government, labor, and employers was convened to begin negotiations over a new minimum wage.

Under the threat of a nationwide work stoppage by the country's three labor confederations (see Section 6.a.), in October 2000, the private sector agreed to a monthly wage increase of \$23.33 (350 lempiras) for workers earning up to \$116.60 (1,749 lempiras) per month. A monthly increase of \$10 (150 lempiras) was retroactive to October 1, 2000, and an additional monthly increase of \$13.33 (200 lempiras) took effect on February 1. This agreement excluded workers in the nonexport agricultural sector, who instead received a monthly wage increase of \$10 (150 lempiras) as of February 1.

Under this agreement, workers earning between \$140 (2,100 lempiras) and \$400 (6,000 lempiras) per month received an additional wage increase of \$23.33 (350 lempiras) as of April 1. This wage increase excluded: workers receiving a salary increase equivalent to, or greater than, \$23.33 (350 lempiras) through either an individual contract or a collective bargaining agreement taking effect 3 months prior to April 1; those paid by piecework or based on productivity; microenterprises, agricultural firms, or ranches employing 15 or fewer workers; and workers in medicine or petroleum product sales whose profit margins are regulated by the Government.

This agreement also incorporated various social commitments by the Government, including the establishment of an Economic and Social Council within which the Government, the private sector, and labor and social groups would debate wages and other labor issues, as well as national social policy. During the year, the regulations for the Council were developed, and the regulations became law in December.

The law prescribes a maximum 8-hour workday and a 44-hour workweek. There is a requirement of at least one 24-hour rest period every 8 days. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoy equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor is cumbersome.

The Ministry of Labor is responsible for enforcing national health and safety laws, but does not do so consistently or effectively. During the year, the Ministry of Labor received technical assistance and equipment to improve its regulatory capacity. There are 16 health and safety inspectors throughout the country. The informal sector is regulated and monitored poorly. Worker safety standards also are poorly enforced in the construction industry. Some complaints alleged that foreign factory managers failed to comply with the occupational health and safety aspects of Labor Code regulations in factories located in the free-trade zones and in private industrial parks (see Section 6.b.). There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.

Labor unions, women's groups, and human rights groups report receiving complaints from workers in textile export industries that include: illegal preemployment pregnancy tests, severely limited access to medical services, verbal abuse, no freedom to organize unions, forced and unpaid overtime. In September the Korean-owned company Dongwoo closed its business without warning days after receiving notification that workers had registered a union. The Ministry of Labor has increased its responsiveness to these complaints, according to the same organizations.

The Government and private sector participated in a regional program to improve occupational safety and health conditions throughout Central America. This program aimed to strengthen regional labor codes and the enforcement capabilities of the Central American labor ministries in these fields.

f. Trafficking in Persons.—The Legal Code includes provisions that prohibit trafficking in persons; however, it is a problem. Honduras is primarily a source country

for trafficked children to neighboring countries. According to Casa Alianza, Honduran children, especially young girls, are trafficked by criminal groups to other Central American countries for purposes of sexual exploitation. Boys reportedly are trafficked to Canada for the purpose of drug trafficking. There are reports that trafficking in children also occurs within the country's borders. There have been reports in the past that girls have been trafficked to Guatemala and Mexico for purposes of prostitution. There also are reports that women who emigrate through Guatemala and Mexico have been found subject to sexual exploitation and debt bondage.

During the year, there were no reports of aliens smuggled to the United States involving the use of force or sequestration (holding persons incommunicado against their will). There were two cases of debt bondage reported in 2000, involving a total of seven persons.

Reports from Casa Alianza in 2000 asserted that approximately 250 Honduran children in Canada were coerced into prostitution or the sale of illicit narcotics. Honduran authorities did not repatriate any of the minors involved despite 2000 press reports that indicated the Government was taking action.

In February 2000, a judge in San Pedro Sula was charged for allegedly kidnaping six minors with intent to sell them to unknown persons; no action has been taken in this case. In July the Government announced that it was working with the Government of Mexico to repatriate over 200 Honduran minors working as prostitutes in southern Mexico. In 2000 a local children's rights group charged that 498 children had been reported missing from 1986 to 2000, including 22 children during the year. The group asserted that local kidnapers receive an average of \$133 (2,000 lempiras) per child, each of whom subsequently is sold abroad for \$10,000 to \$15,000. No more information was available on this case at year's end. No cases of kidnaping were reported during the year.

The law prohibits trafficking in persons and provides for sentences of between 6 and 9 years imprisonment; the penalty is increased if the traffickers are government or public employees, or if the victim suffers "loss of liberty" or is killed. The Government and Justice Ministry, through its General Directorate for Population and Migration, is responsible for enforcing the country's immigration laws. However, corruption, a lack of resources, and weak police and court systems hinder law enforcement efforts. While traffickers have been arrested, the Government has not prosecuted any cases.

The Government does not provide economic aid to victims or potential victims of such crimes. However, in 2000 the Government inaugurated two centers in Tegucigalpa and San Pedro Sula to assist citizens deported from other countries to relocate in Honduras. The centers' activities continued during the year, with the assistance of several international organizations.

JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. It gained independence in 1962. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; Prime Minister P.J. Patterson's People's National Party (PNP) won 50 of the 60 seats in Parliament in national elections in 1997 that were significantly less violent than previous general election campaigns. Intimidation of voters and party agents and restrictions on the free movement of voters was reported. The judiciary is generally independent but lacks adequate resources.

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF—army, air wing, and coast guard) is charged with national defense, marine narcotics interdiction, and JCF support. The JDF has no mandate to maintain law and order and no powers of arrest, unless so ordained by the Prime Minister. In July the Prime Minister gave the JDF powers to cordon and search. The Ministry of National Security oversees the JCF and the JDF. Civilian authorities generally maintain effective control of the security forces; however, some members of the security forces committed human rights abuses.

With a population of approximately 2.6 million, the economy is largely based on tourism and primary products (bauxite and alumina, sugar, bananas). The Government has promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes-painful program of structural adjustment. In 2000 the trade-dependent economy grew by 0.8 percent for the first time in 5 years. In 2000 annual per capita income was \$2,630, but there is a large gap between the wealthy and the impoverished.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Some members of the security forces committed extrajudicial killings. Police and prison guards abused detainees and prisoners. Although the Government moved to investigate incidents of police abuses and punish some of those police involved, continued impunity for police who commit abuses remained a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. Arbitrary arrest and detention were problems. The Government moved to release hundreds of persons declared mentally unfit to plead and then held without trial. The judicial system was overburdened, and lengthy delays in trials were common. Violence and discrimination against women remained problems. There were cases of societal discrimination against persons with disabilities and members of the Rastafarian religion. Violence against suspected homosexuals occurred. Child labor was a problem. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were at least eight reports of political killings during the year.

On September 7, unidentified gunmen invaded the Mountainview area of Kingston, a Jamaica Labour Party (JLP) affiliated community, and killed four persons, two of whom were JLP party activists. JLP murals and symbols on exterior walls were painted over with PNP slogans in red, one of the party's colors. Police theorized that the murder was a reprisal for the September 3 killing of a former JLP activist who had switched allegiance to the PNP. Killings in the area soon escalated to a total of 14, although it was not clear that all were politically motivated. JLP and PNP officials cooperated to ease tensions in the community. There was no evidence to suggest that the violence was politically directed by the PNP hierarchy. Although the last two national elections were relatively calm, there is a history of political violence and killings in the period leading up to elections (see Section 3).

The police frequently employed lethal force in apprehending criminal suspects. There were 163 deaths, including those of 15 police officers, during police encounters with criminals during the year. While allegations of "police murder" were frequent, the validity of many of the allegations was suspect. The country faces a critical crime situation with a homicide rate exceeding 40 per 100,000 persons. Well-armed gangs, trafficking in narcotics and guns, control many inner-city communities. The gangs are often better equipped than the police force and have conducted coordinated ambushes of joint security patrols. There have been targeted assaults against police officers and their families.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. In 1999 the Government established the Bureau of Special Investigations (BSI) within the JCF specifically to address police shootings. This group supplements the JCF Office of Professional Responsibility (OPR), which investigates police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversees investigations of the other two bodies and can initiate its own investigations. The Government added 8 new investigators to the PPCA during the year, bringing the number to 12.

On January 26, a 50-year-old farmer was shot and killed outside his house in what police described as a shoot-out. It was reported the police were summoned to the man's house following a dispute with another farmer. The man's son said that he witnessed the police shoot his father while his hands were on his head. Residents subsequently blocked roads in protest, demanding an investigation. The PNP's council on human rights echoed the residents' call. In March the BSI concluded its investigation, and forwarded the case to the Director of Public Prosecutions (DPP).

On March 17, the police Crime Management Unit killed seven youths in a house in Braeton, St. Catherine parish. The police contended that they fired from outside the house only after being fired upon from inside. Residents claimed that the police entered the house and executed the young men while they begged for their lives. The April report of an independent pathologist who observed the post mortem showed that the youths had been killed at close range with bullets to the head. The Jamaican Bar Association, Jamaicans for Justice (see Section 4), and other organizations expressed serious concerns regarding the police version of events and called for a Commission of Inquiry. A BSI investigation was concluded in May and forwarded to the DPP. In July the DPP ruled that a coroner's inquest should be convened. Following preliminary hearings in September and November, a coroner's inquest was set for January 2002.

On June 3, JDF and JCF security forces patrolling West Kingston fired on members of a funeral procession, injuring a 26-year-old woman and killing a 44-year-old man. Following an internal inquiry, the JDF dismissed three soldiers for violating JDF rules of engagement. The Leader of the Opposition, who had criticized the JDF for failing to discipline alleged human rights offenders in the past, commended the JDF action. Firearms testing determined that police were not involved in the shooting.

On July 7, a joint police-army operation entered Tivoli Gardens, West Kingston, ostensibly to search for an arms cache following months of unrest in West Kingston. During the operation, 25 civilians, 1 policeman, and 1 soldier were killed in violence that lasted for several days. The police said that they came under heavy fire from gunmen. On July 9, the police detained 14 men in West Kingston and held them without charges for 3 weeks (see Section 1.d.). The next day, JDF soldiers detained two youths and reportedly forced them to lie on the pavement for 3 hours (see Section 1.c.).

The opposition leader, who is the parliamentarian for Tivoli Gardens, contended that the police operation was politically motivated in order to discredit him before national elections. He questioned whether police came under fire. Videotaped footage showed various gunmen with heavy weapons, while a tape broadcast on local television showed police firing indiscriminately from their positions without aiming their weapons. Following a call from the opposition, the Prime Minister established a Commission of Inquiry. The opposition charged that the commissioners were selected on the basis that they would issue "results . . . comfortable" for the Government and said that the Commission has no credibility with opposition supporters. BSI, the opposition, and the Public Defender's Office collected evidence to provide to the inquiry, which began on September 10. Police testified that they had come under heavy fire. Lawyers affiliated with the JLP boycotted the Commission after the Chairman ruled that they would be able to cross-examine witnesses only if select JLP politicians were mentioned by name. Numerous residents slated to testify did not appear, citing fear of retaliation. The opposition leader refused to comply with a subpoena to testify, on grounds that the Commission discriminated against him.

On October 23, police killed Andrew Stephens, also known as Andrew Phang, a JLP "don" (gang leader), reportedly in a shoot-out. In response, Grant's Pen community residents set up roadblocks in protest, but police cleared them by nightfall. According to the JCF, Phang died in a shoot-out, but local residents claimed that police handcuffed, beat, and then executed Phang. Neither account could be confirmed independently.

In September 2000, the authorities brought murder charges against a police-woman involved in the February 2000 shooting of a 20-year-old man in Farm district, Clarendon parish; the trial was still under way at year's end.

In May a coroner's inquest recommended that all the police involved in the December 1999 death of Patrick Genius should be held criminally responsible. The autopsy report of his death indicated that Genius had sustained two gunshots to the leg and three shots to the head, two of which were to the back of the head. Eyewitnesses to the killing claimed that Genius was shot with his hands up in the air after being detained by police officers traveling in an unmarked vehicle. By year's end, the DPP had not decided whether to file criminal charges.

In August 1999, nine soldiers and four policemen severely beat Michael Gayle, described as a paranoid schizophrenic, after he tried to pass through a roadblock near his home after curfew. Gayle died as the result of internal injuries; at the coroner's inquest, the jury returned a majority verdict that all police and military personnel on duty at the roadblock at that time should be charged with manslaughter. However, in March 2000, the DPP ruled that there was not sufficient evidence to bring charges against specific individuals for Gayle's death. The police opened a new investigation of this incident, completed it in April 2000, and resubmitted the results to the DPP. The police investigation did not uncover any new information and recommended that the case be closed. No criminal charges had been filed at year's end.

The authorities brought murder charges against a police officer for the death of a taxi driver killed when police fired on a taxi carrying passengers in Kitson town in June 1999. The trial continued at year's end.

Following a police investigation, in September 1999 the Public Prosecutor's office charged a police sergeant with murder for the April 1999 killing of an off-duty JDF soldier during island-wide protests. The case was still before the courts at year's end.

Four detainees died while in a police lockup during the year (see Section 1.c.).

On April 10, Amnesty International released an 83-page report that catalogs and analyzes credible allegations of human rights abuses by the police. The report

chronicles alleged extrajudicial killings and use of excessive force, noting that official police accounts of “shoot-outs” initiated by those killed frequently were not supported by physical evidence. The report also highlighted allegations of abuse of suspects in police custody and accusations of inadequate investigation of and punishment for human rights abuses (see Section 1.c.).

The JCF has undertaken an initiative of “community policing” in certain areas to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. For example, designated policemen walk beats and interact with members of the community on a daily basis. In April 2000, a prominent human rights activist assumed the newly created position of Human Rights Advisor to the Minister of National Security and Justice. She has been engaged in educating JCF trainees as well as junior officers to respect citizens’ rights. The Jamaica Chamber of Commerce Inner-City Development Committee, in association with the Jamaica Social Investment Fund, distributed a Police Code of Conduct and a Charter of Citizen’s Rights to police officers and citizens. The Police Federation conducts lectures to further educate policemen in citizens’ rights. The Government is developing a human rights curriculum, with assistance from foreign governments and local human rights groups, to be instituted in schools nationwide. The JCF policy statement on the use of force incorporates U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

Vigilantism, involving spontaneous mob executions in response to crime, continued to be a problem. There were nine known vigilante killings during the year, compared with eight in 2000. For example, on August 30, the body of a nude man with multiple stab wounds was found tied to a telephone pole in the Papine area of Kingston. Police theorized that he may have been killed for molesting a young girl. One resident alleged that the victim had molested more than one child in the community. Official investigations into such killings generally do not uncover information, since the persons and the community involved usually seek to intimidate potential witnesses. Human rights advocates contend that police do not consider such murders a priority.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and other abuse of prisoners and detainees; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures. There were also credible reports that police abused detainees in lockups.

At 2:00 a.m. on July 26, a demolition team escorted by police destroyed the homes of 17 squatters who had built illegally on Roaring River government land near Steer Town, St. Ann parish. The Urban Development Corporation (UDC), an executive agency, ordered the operation; residents charged that they were not notified in advance. Some 200 demonstrators blocked parish roads in protest. After 5 hours, local police and the JCF Mobile Reserve Unit attempted to disperse the crowd, firing tear gas and live ammunition in the air. Although no one was hit by gunfire, a baby was taken to the hospital after inhaling tear gas. The police charged the crowd with batons. An opposition parliamentarian claimed that police assaulted her, although she had identified herself. Reportedly, some police did not wear badges and could not be identified, a breach of police regulations. Prime Minister Patterson criticized the predawn operation as “inhuman,” and ordered the Office of Disaster Preparedness and Relief to provide shelter and relief to those ejected. Patterson also requested a report on the demolition operation and a review of procedures for ejecting squatters, which the UDC forwarded to his office in July. The OPR investigated accusations of police excesses. The BSI was preparing to submit the case to the DPP at year’s end.

On July 10, JDF soldiers in a West Kingston operation (see Section 1.a.) detained two youths and reportedly forced them to lie on the pavement for 3 hours in the sun. The Public Defender’s office sought compensation from the Government for the two men and forwarded their files to the Attorney General’s office for action.

In June 2000, police fired on a minibus carrying 16 passengers when the driver failed to stop at a roadblock. Six persons were injured, including two students. Two policemen involved in the incident were removed from front-line duty and more training was mandated for police in the proper use of firearms. The police concluded an investigation into the incident and sent it to the DPP’s office, which had not taken any action by year’s end.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care are typical. Unlike the previous year, there were no reports of prison riots. The majority of pretrial detainees are held in police lockups.

In May 2000, a riot at the St. Catherine's district prison led to reports of beatings by guards and JDF soldiers of at least 150 inmates. A one-person Commission of Inquiry was convened to investigate. In April the Commissioner released his report examining how contraband entered the prisons and whether excessive force was used to quell the riot. The Commissioner found that a planned riot occurred following cell searches. He found that excessive force was used, and that there were reprisal beatings of inmates. The Commissioner cited poor conditions and poor supervision, due to the fact that a number of officers were on forced leave and soldiers had been assigned to guard duty at the prisons, as root causes (see Section 6.a.). He recommended hiring new correctional officers, installing electronic surveillance, and introducing alternative methods of restraint. He also recommended that the Commissioner of Corrections be involved personally in day-to-day prison administration. The Corrections Department has implemented electronic surveillance and begun training new officers. Officers are being trained in alternative restraint methods in order to eliminate use of the baton. JDF soldiers involved in the incident were reassigned. One correctional officer was dismissed. No criminal charges were filed against any of the guards or soldiers.

In July the National Security Ministry completed a study of released prisoners to assist with rehabilitation programs. The Corrections Department administers work release programs and reached an agreement with local government to contract prisoners for public works projects.

Between July and August, four detainees who were held at the Hunt's Bay police station lockup in Portmore, St. Catherine parish, died under unexplained circumstances. The police first assumed that three of the detainees, who complained of abdominal cramps and died after being sent to a local hospital, suffered poisoning. Police instituted new procedures for supplying detainees food given by relatives. A post-mortem examination of the three showed no evidence of poison. The Ministry of Health ordered the lockup closed, and detainees were moved to other stations. The Ministry of Health and the OPR investigated. At year's end, the OPR was preparing to submit the case to the DPP.

The April Amnesty International report (see Section 1.a.) also documented conditions at the Hunt's Bay police station lockup. Severe overcrowding (more than three times capacity) impeded movement and necessitated sleeping in shifts. Detainees were held in cells without lighting or sanitation and reported being denied access to medical care and adequate food. The report detailed frequent and credible allegations of police abuse in lockups, including severe beatings, mock executions, and rape. In October a new remand center opened in Bumpers Hall, St. Catherine parish, which is expected to ease overcrowding in lockups. The Government continues to provide police human rights training. The police are required to call a legal aid attorney when they detain a person (see Section 1.d.).

A separate prison for women—the Ft. Augusta Women's Prison—is housed in a 19th century fort. Sanitary conditions are poor, although far less so than in the men's prisons because there is less overcrowding. Ft. Augusta is also safer and does not have the violence found in the men's prisons. During the year, the Corrections Department added pay telephones for the prisoners' use.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles are held with adults. A 1999 Human Rights Watch report criticized the conditions in which juveniles are held. The organization noted that the Government responded quickly to remove some children from lockups. However, the report detailed many cases in which juveniles were detained improperly, not given access to legal representation, and held in adult lockups where they were victimized by adult prisoners. The Government charged Ministry of Health officers with finding appropriate "places of safety" for juveniles, and the new procedures are considered effective on the whole.

In July 2000, the Court of Appeals ruled that it was unconstitutional for juveniles to be held "at the Governor General's pleasure." This referred to a section of the Juveniles Act that provides that persons under the age of 18 who commit a capital crime must have their death sentence commuted; however, they could be held for an indeterminate time at the Governor General's discretion and were subject to incarceration in an adult prison. The Government appealed the ruling to the Privy Council in the United Kingdom, which had not ruled as of year's end.

In general, the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

d. Arbitrary Arrest, Detention, or Exile.—The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime, and the police continued to arrest and detain citizens arbitrarily.

On July 9, police detained 14 men in West Kingston during a police operation (see Section 1.a.) and held them for 3 weeks without charge. The police complied with a resident magistrate's order that they be charged or released.

In 1999 police rounded up 52 men from the Grant's Pen area of Kingston after civil unrest erupted there. The men reportedly were fingerprinted, photographed, and then released without being charged. Under normal procedures, suspects only can be fingerprinted or photographed after conviction. Fourteen of the men brought a class action civil suit, citing civil rights violations. The case was settled and in July the plaintiffs received \$600 (J\$27,000) each.

In September 2000, a 3-person Commission of Inquiry presented its recommendations following its investigation of the detention and forced transport of at least 25 persons (many of whom were reportedly mentally ill) who were living on the streets in a Montego Bay business district. It recommended that the victims be granted \$500 (J\$20,000) per month for life. In response, the Government provided assistance to 18 persons. In January the DPP charged a policewoman in the abduction; two local government employees were charged in October 1999. Human rights advocates and the Police Federation widely criticized the action as "scapegoating." In June the DPP dropped all charges against the two public sector employees and the policewoman, citing a lack of evidence. Jamaicans for Justice, a human rights organization, claimed that three homeless men abducted that night still are missing; however, one was located during the year.

On March 27, a magistrate's court freed a 76-year-old man who had been held in prison for 29 years without trial because he had been judged unfit to plead due to mental illness. The man's original crime had carried a sentence of 3 years. Human rights advocates had expedited the case after revelations earlier in the year that some 300 to 500 persons were being held without trial as unfit to plead. The sole prison service psychiatrist said that reports he had filed declaring numerous prisoners fit never were acted upon. Following the public scrutiny, the Government acted swiftly to determine the number of such cases and bring them before the courts. In August the Commissioner of Corrections declared the number held was close to 100, a decrease from a high of 300 such prisoners. However, human rights advocates contend that number is closer to 500. Human rights advocates blamed a breakdown in the prison bureaucracy, noting there was no apparent conscious effort to deny prisoners a right to trial. The Corrections Department contracted a psychiatric social worker to assist the prison psychiatrist.

The law requires police to present a detainee in court within 48 hours of arrest, but the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period. The Government attributed this circumstance to an overburdened court system that cannot accommodate large numbers of such presentations in a timely manner (see Section 1.e.). Magistrates inquire at least once a week into the welfare of each person listed by the JCF as detained. There is a functioning bail system.

Foreign prisoners must pay for their own deportation when they have completed their sentences. If they cannot afford to pay, they are jailed until relatives or consulates can arrange for transportation.

The Constitution prohibits forced exile, and there were no reports that it occurred.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, which generally exists in practice. However, the judicial system is overburdened and operates with inadequate resources.

Three courts handle criminal matters at the trial level.

Resident magistrates try lesser offenses (misdemeanors). A Supreme Court judge tries felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants have the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court in the country. This appeal process results in frequent delays. The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The lack of sufficient staff and resources hinders due process. Trials in many cases are delayed for years, and other cases are dismissed because files cannot be located. A night court has had some success in reducing the backlog of cases.

The defendant's right to counsel is well established. Legal aid attorneys are available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The Public Defender may bring cases for individuals who have had their constitutional rights violated. The Public Defender's Office contracts private attorneys to represent clients. There are sufficient funds and legal aid attorneys to meet demand.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits arbitrary intrusion by the State into the private life of an individual. The revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act. The act allows search without a warrant of a person on board or disembarking a ship or boat, if a police officer has good reason to be suspicious. In practice, the police conducted searches without warrants. Unlike the previous year, there were no reported allegations of unauthorized wiretapping by the police.

In October 2000, the media reported allegations that a police unit wiretapped telephones without proper authorization in an investigation of police involvement in narcotics trafficking. Only the Prime Minister has the authority to order wiretaps. Following his investigation, in July the Director of Public Prosecutions ordered that the civilian head of the police unit and two telephone company employees be charged with interfering in the operation of a public utility.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice.

The four largest newspapers, all privately owned, regularly report on alleged human rights abuses, particularly those involving the JCF. Foreign publications are widely available. There are 3 television stations and 13 radio stations. The Government's broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions are unregulated and widely available through satellite antennas and cable operators.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. There were numerous community protests against police actions during the year. A local human rights group organized various rallies, including one protesting the police shooting of seven youths (see Section 1.a.) and one to remember those still missing after a 1999 abduction of homeless persons in Montego Bay (see Section 1.d.). Security personnel generally acted with restraint during public demonstrations; however, in July local police and the JCF mobile reserve unit used tear gas against protesters, fired live ammunition into the air, and charged the crowd with batons during a protest against the removal of squatters in St. Ann parish (see Section 1.c.).

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. However, it is not clear whether such complaints reflect discrimination on the basis of religious belief or due to the group's illegal use of marijuana, which is used as part of Rastafarian religious practice. Rastafarianism is not a recognized religion under the law. It is alleged that the police force Rastafarian detainees to cut their hair and surreptitiously give them food that they are forbidden to eat. In August a government-chartered independent commission examined decriminalization of marijuana and concluded with a recommendation for decriminalization of private personal use and as a religious sacrament. Rastafarians believe that the recommendation indicates increased tolerance of their religious practices. The Public Defender has identified gaining recognition for Rastafarianism as a religion as a priority for his office.

Rastafarians have no right to prison visits by Rastafarian clergy. On August 30, the Public Defender's Office filed a lawsuit against the Government on behalf of a Rastafarian prisoner who charged that he was denied the right to worship. The prisoner complained that he has no rights to the ministrations by clergy afforded to prisoners of other religions. He complained that he was denied use of the prison chapel for a Rastafarian baptism. The Commissioner of Corrections and Attorney General were named as respondents in the suit.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

The Government provides asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government established a committee and formal procedures to review claims to refugee

status. The Government granted one claim of asylum during the year. In November a group of 128 Haitians arrived in the country. According to immigration officials, 122 were judged to be economic migrants and were not considered for asylum. The other six Haitians remain in the country and their cases were pending at year's end. The committee denied all claims to refugee status by Cubans and Haitians during the year.

The issue of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in periodic elections held on the basis of universal suffrage. All citizens age 18 and over have the right to vote by secret ballot. However, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties face substantial influence and pressure from politically connected gangs and young men hired by political parties, which impede the free exercise of their right to vote. Although the last two national elections were relatively calm, there is a history of political violence and killings in the period leading up to elections. The next national elections must be held by March 2003.

Two political parties—the PNP and the JLP—have alternated in power since the first elections under universal adult suffrage in 1944; a third party—the National Democratic Movement (NDM)—was established in 1995 and another party—the United People's Party (UPP)—was formed during the year. The PNP holds 46 of the 60 seats in Parliament; the opposition JLP holds 12. At year's end, two seats were vacant. On March 8, a by-election was held to fill the seat of a parliamentarian who resigned in November 2000. The election generally was free and fair, due to the efforts of the Electoral Office of Jamaica and the police. Supporters of all the parties were notably civil to each other throughout the day. However, there were allegations of voter intimidation in February prior to the election. A ruling party Councilor was audiotaped telling squatters that a vote for the opposition would "seriously risk" their chance at securing legal housing. The opposition party was forced to apologize when its supporters looted the convenience store of the campaign manager for a third party candidate.

In August an opposition Councilor in St. Mary parish charged that supporters of the ruling party were attempting to intimidate him following his allegations that the Government parliamentarian was building a constituency office without approval. The Councilor's car windshield was broken, and he later received a telephone threat. Local police were investigating at year's end.

During the 1997 general election campaign, both international and local observer groups concluded that, although the process was significantly less violent than recent election campaigns, problems persisted in the garrison communities. These problems included intimidation of party agents and voters of nondominant parties and restrictions on the movement of voters and election workers. Some areas are so dominated by one party that the polls simply closed early and vote counts were taken that resulted in 100 percent (or nearly 100 percent) of the votes being awarded to the dominant party. These problems persisted in the December 1997 election, despite the best efforts of the security forces, which were credited with controlling violence such as the beating of voters, and reducing election malpractice such as the theft of ballot boxes from polling places.

There were at least eight killings of politically connected persons during the year that produced allegations of political motivation (see Section 1.a.).

There are no legal restrictions on the participation of women in politics; however, the percentage of women in government and politics does not correspond to their percentage of the population. Women hold about 20 percent of all political offices and 30 percent of the senior civil service positions. One of the 16 cabinet members is a woman, as is the PNP General Secretary.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Independent Jamaica Council for Human Rights is the country's only formal organization concerned with all aspects of human rights. Jamaicans for Justice is a human rights group created in 1999 in response to concerns about police impunity; the nongovernmental organization (NGO) focuses on the issues of extrajudicial killing and excessive use of force by the police. Jamaicans for Justice reported that undercover police regu-

larly attend its meetings. Government officials generally are cooperative and responsive to the views of human rights organizations. However, on April 18, the Foreign Minister criticized an Amnesty International report on police killings as “one-sided and biased” (see Section 1.a.). He criticized the Amnesty Secretary General for “political messages” and accused the organization of trying to embarrass the Government. The Minister also criticized the public release of an Amnesty International-affiliated independent coroner’s report on the seven youths killed at Braeton while the investigation was still under way (see Section 1.a.).

In April 2000, the Public Defender (Interim) Act established a Public Defender’s Office to bring cases on behalf of those who charge that their constitutional rights have been violated. The office incorporated the former post of Parliamentary Ombudsman, intended to provide citizens protection against abuses of state power and damage caused by unjustifiable administrative inaction, and expanded that role to include protection of citizens whose constitutional rights are infringed. The Public Defender also incorporated the previous post of Political Ombudsman to ensure that political parties adhere to a code of conduct. The office contracts private attorneys to bring suits against the Government on behalf of private citizens. The Defender sought compensation for two youths detained by soldiers in July (see Section 1.d.) and filed a lawsuit against the Government on behalf of a prisoner’s right to worship (see Section 2.c.). The Public Defender investigated the conduct of the security forces in an early July West Kingston operation (see Section 1.a.). He also spoke out against attacks against homosexuals (see Section 5).

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government generally enforces these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, especially in the garrison communities (see Section 3). Individuals have committed acts of violence against suspected homosexuals; for example, in January fellow students beat four university students with wooden boards because they were suspected homosexuals. In November the Public Defender strongly criticized violence targeted against homosexuals.

Women.—Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. Reported incidents of rape and incest increased by 5 percent during the year. The JCF rape investigative and juvenile unit, which is headed by a female deputy superintendent, handles sex crimes. The Domestic Violence Act provides remedies for domestic violence, including restraining orders and other non-custodial sentencing. Breaching a restraining order is punishable by a fine of up to about \$200 (J\$10,000) and 6 months’ imprisonment.

Unlike the previous year, there were no reports of sexual harassment of women by the police.

There is no legislation that addresses sexual harassment, and it is a problem.

The law prohibits prostitution; however, it is widespread, especially in tourist areas.

The Constitution and the Employment Act accord women full legal equality; however, in practice women suffer from discrimination in the workplace and often earn less than their male counterparts. The Bureau of Women’s Affairs, reporting to the Minister of Tourism and Sport, oversees programs to protect the legal rights of women. These programs have had limited effect but have raised the awareness of problems affecting women. In 1996 the Government established a steering committee, charged with creating a Commission on Gender and Social Equity. In 1997 the committee forwarded its recommendations to Parliament, which accepted them; the Government still was discussing methods of implementation at year’s end.

A number of active women’s rights groups exist. They are concerned with a wide range of issues, including violence against women, political representation, employment, and the image of women presented in the media. Their effectiveness is mixed.

Children.—The Government is committed to improving children’s welfare. The Ministry of Education, Youth, and Culture is responsible for implementation of the Government’s programs for children. The Educational Act stipulates that all children between 6 and 11 years of age must attend elementary school. However, due to economic circumstances, thousands of children are kept home to help with housework and avoid school fees.

A National Youth Development Center, established in 2000 as part of the Ministry of Education, Youth, and Culture, coordinates youth programs.

There is no societal pattern of abuse of children; however, a number of reported cases of sexual abuse and incest may point to a growing trend. There were reports of child prostitution.

The Juvenile Act addresses several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles. However, resource constraints have resulted in juveniles "in need of care or protection" being incarcerated in police lockups with adults (see Section 1.c.).

During the year, the Government began a program to alleviate the problems of street children. The Possibilities Program includes a care center, a resocializing center, and a skills center.

Persons with Disabilities.—No laws mandate accessibility for persons with disabilities, and they have encountered discrimination in employment and denial of access to schools. Several government agencies and NGO's provide services and employment to various groups of persons with disabilities. In 1998 the Prime Minister appointed the first blind member of the Senate. In November the Prime Minister appointed this senator to be Minister of State for Labor. The Government trains persons with disabilities for jobs within the information technology sector, and added two buses equipped with hydraulic lifts for wheelchairs during the year. In July 1999, an incident in which police rounded up a number of persons (many of whom reportedly were mentally ill) led to a national debate over the police action (see Section 1.d.). In January it was reported that numerous persons declared unfit to plead remained in prison without trial (see Section 1.d.).

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form or join a trade union, and unions function freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There is a spectrum of national unions, some of which are affiliated with political parties. Approximately 15 percent of the work force is unionized.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes do occur. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. Other than in the case of prison guards, there is no evidence of any workers losing their jobs over a strike action. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the International Labor Organization (ILO) repeatedly criticized as overly inclusive. There were no significant strikes during the year.

Beginning in December 1999, prison guards conducted an islandwide sick-out to protest the proposed reappointment of the Commissioner of Corrections. When 800 guards failed to comply with an order to return to work, the authorities placed them on forced leave at one-fourth pay in January 2000. In March 2000, the Government brought disciplinary charges against the guards and declared the work stoppage illegal. Approximately 100 were judged legitimately sick and allowed to return to work. In May 2000, hearings before the Public Services Commission began to examine the charges against the approximately 700 guards still on forced leave. During the year, the hearings proceeded on a case-by-case basis and 46 guards were dismissed. The University and Allied Workers Union has charged that the former National Security Minister attempted to negotiate with selected guards individually.

All major trade unions are affiliated with some major regional or international labor organizations.

b. The Right to Organize and Bargain Collectively.—There were no reports of government interference with union organizing efforts during the year. Judicial and police authorities effectively enforce the LRIDA and other labor regulations. All parties are committed firmly to collective bargaining in contract negotiations, even in some nonunion settings. An independent Industrial Disputes Tribunal (IDT) hears cases where management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handles 35 to 40 cases each year. Most are decided within 90 days, but some take longer to resolve due to the complexity of the dispute or delays requested by the parties. The LRIDA prohibits antiunion discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

Collective bargaining is denied in a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question, or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The ILO's Committee of Experts (COE) considers that where there is no collective

bargaining agreement and where a trade union does not obtain 50 percent of the votes of the total number of workers, that union should be able to negotiate at least on behalf of its own members. The COE requested the Government to take necessary measures to amend this legislation. The Government contends this would unduly lengthen negotiations.

Domestic labor laws apply equally to the “free zones” (export processing zones). However, there are no unionized companies in any of the 3 publicly owned zones, which employ 9,079 workers.

Organizers attribute this circumstance to resistance by foreign owners in the zones to organizing efforts, but attempts to organize plants within the zones continue. Company-controlled “workers’ councils” handle grievance resolution at most free zone companies, but they do not negotiate wages and conditions with management. Management determines wages and benefits within the free zones; these are generally as good as or better than those in similar industries outside the zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performs them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

c. Prohibition of Forced or Compulsory Labor.—The Constitution does not specifically prohibit forced or compulsory labor by either adults or children, but there were no reports that this practice occurs.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. However, enforcement is uneven. Children under the age of 12 are seen peddling goods and services on city streets. There are also reports that underage children are employed illegally in fishing communities and in prostitution (see Section 5).

A 1994 UNICEF report stated that 4.6 percent of children below the age of 16 worked to help support their households. In December 1999, the Minister of Labor, Welfare, and Sport gave a speech in which she stated that 23,000 children were engaged in child labor.

In September 2000, the Government signed a memorandum of understanding with the ILO in preparation to ratify ILO Convention 182 on the prohibition and elimination of the “worst forms” of child labor. The memorandum provides funding and technical assistance to assess the country’s child labor situation. An ILO representative overseeing the project is assigned to the Labor Ministry and conducting various assessments of the problem. While the Constitution does not prohibit forced or bonded labor by children, such practices were not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work.—The minimum wage, raised from \$20 (J\$800) to \$30 (J\$1,200) per week in 1999, widely is considered to be inadequate to provide a decent standard of living for a worker and family. Most workers are paid more than the legal minimum, except in the tourism industry. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that is observed widely.

The Labor Ministry’s Industrial Safety Division sets and enforces industrial health and safety standards, which are considered adequate. Public service staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service have contributed to the difficulties in enforcing workplace regulations.

Industrial accident rates, particularly in the bauxite and alumina industry, remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

f. Trafficking in Persons.—The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. There were no confirmed reports that persons were trafficked to, from, or within the country.

MEXICO

Mexico is a federal republic composed of 31 states and a federal district, with an elected president and a bicameral legislature. In July 2000, voters elected President Vicente Fox Quesada of the Alliance for Change Coalition in historic elections that observers judged to be generally free and fair, and that ended the Institutional Rev-

olutionary Party's (PRI) 71-year hold on the presidency. The peace process in Chiapas between the Zapatista National Liberation Army (EZLN) and the Government remained stalled, despite positive developments early in the year. Sporadic outbursts of politically motivated violence continued to occur in the southern states of Chiapas, Guerrero, and Oaxaca. The judiciary is generally independent; however, on occasion, especially at the state level, it has been influenced by government authorities. Corruption, inefficiency, impunity, disregard of the law, and lack of training are major problems.

The police forces, which include federal and state judicial police, the Federal Preventive Police (PFP), municipal police, and various police auxiliary forces, have primary responsibility for law enforcement and maintenance of order within the country. However, the military plays a large role in some law enforcement functions, primarily counternarcotics. Elected civilian officials maintain effective control over the police and the military; however, corruption is widespread within police ranks and also is a problem in the military. The military maintains a strong presence in the state of Chiapas and a lesser, but still significant, deployment in Guerrero. Military personnel and police officers committed serious human rights abuses.

The country's population is approximately 98 million. The Government continued to deregulate and open the market-based, mixed economy. The gross domestic product (GDP) in 2000 was \$596 billion, and the inflation rate was 8.9 percent. Per capita GDP in 2000 was approximately \$5,970. In the first half of the year, real wages equaled or surpassed levels reached before the country's 1994 financial crisis, effectively closing an important economic period. However, wage growth stalled in the second half, reflecting a contraction in exports and the worldwide economic slowdown. Leading exports include petroleum, automobiles, and manufactured and assembled products, including electronics and consumer goods. An estimated 26 percent of the population resides in rural areas where subsistence agriculture is common. Income distribution remained skewed; the top 20 percent of the population received approximately 58 percent of total income, while the bottom 20 percent earned an estimated 3.6 percent.

The Government generally respected many of the human rights of its citizens; however, serious problems remain in several areas and in some states where a poor climate of respect for human rights presents special concern. Federal and state law enforcement officials and members of the military were accused of committing extrajudicial killings. There were reports of vigilante killings. There continued to be credible reports of disappearances. The police often torture persons in order to obtain information, prosecutors use this evidence in courts, and the courts continue to admit as evidence confessions extracted under torture. The military has been accused of using torture in the past. Impunity remains a problem among the security forces, although the Government continues to sanction public officials, police officers, and members of the military. Widespread police corruption and alleged police involvement in narcotics-related crime continued, and police abuse and inefficiency hampered investigations. Narcotics-related killings and violence, particularly in the northern states, continued. Prison conditions are poor. The police continued to arrest and detain citizens arbitrarily. Lengthy pretrial detention, lack of due process, and judicial inefficiency and corruption persisted. The authorities violated citizens' privacy. Indigenous people's access to the justice system continued to be inadequate. There were reports of forced sterilizations in marginalized communities, especially indigenous areas. Human rights groups and representatives of a special unit of the Procuraduria General De La Republica (PGR) reported that armed civilian groups in the state of Chiapas continued to commit human rights abuses and some observers alleged that the Government used excessive force during incidents of conflict with likely sympathizers of rebel groups in Chiapas and Guerrero. Sporadic guerrilla attacks against government property and personnel continued; however, there were fewer such attacks than in previous years. Violence and threats against journalists primarily by narcotraffickers and on occasion by authorities hindered press freedom, and there have been reports in the past of self-censorship. Corrupt members of the police sometimes violated the rights of illegal immigrants; however, the Government opened an office to receive such complaints. Human rights workers were subjected to attacks and harassment. For example, on October 19, the prominent human rights lawyer Digna Ochoa was killed by unknown persons. Violence and discrimination against women, indigenous people, religious minorities, homosexuals, and individuals with HIV/AIDs persisted. Sexual exploitation of children is a problem. There were credible reports of limits on freedom of association and worker rights. There is extensive child labor in agriculture and the informal economy. Trafficking in persons, including children, is a problem and there were credible reports that police and other officials were involved in trafficking.

The Government's efforts to improve the human rights situation continued to meet with limited success. The Government took a number of steps to enhance cooperation with the international community and with domestic human rights groups during the year. On September 25, the President announced the creation of an Undersecretariat for Human Rights and Democracy within the Secretariat of Foreign Relations and appointed Mariclaire Acosta as the new Undersecretary. Undersecretary Acosta increased cooperation with the U.N. and the Inter-American Commission on Human Rights (IACHR), and increased public participation in the Government's development of human rights initiatives. She also advocated the passage of a legislative package which resulted in the ratification and adherence to two international conventions and numerous protocols and agreements addressing human rights issues. On October 30, the Government initiated a roundtable mechanism, through the Secretariat of Government, to communicate directly with human rights nongovernmental organizations (NGO's) on reform issues and protection of human rights defenders. The Government continued to support the autonomous National Human Rights Commission (CNDH), which issued a significant report in November on past cases of forced disappearances. The President announced the creation of a special prosecutor to pursue the cases in the criminal justice system. The Secretariat of Foreign Relations publicly stated its desire to comply with recommendations by the IACHR and did so in at least one case during the year; the Government also created working groups to reexamine other cases. Government officials expressed an increased openness to intense scrutiny by both national and international human rights activists and relaxed requirements for entry into the country of human rights observers.

Following a December 2000 cooperation agreement between the President and U.N. High Commissioner for Human Rights (UNHCHR) Mary Robinson, the office of the high commissioner initiated a 5-month program that included a technical assessment of the CNDH, training seminars on forensic investigations and the documentation of torture, and a conference on strengthening the capacity of indigenous NGO's. The first phase of the program was completed in July; a second phase of the technical cooperation programs was being negotiated at year's end.

International human rights NGO's expressed support for the Administration's commitment to human rights and for the creation of a Special Prosecutor to investigate disappearances; however, during the year, they began to express impatience with the slow pace of implementation. In a December report, Amnesty International acknowledged that the President had asserted his commitment to human rights; however, it faulted him for failing to institute measures that would halt abuses, and it accused the President of not asserting enough authority to solve the murder of Digna Ochoa. In its December report, Human Rights Watch declared that human rights abuses allegedly committed by the military must be investigated by civilian authorities and turned over to civilian courts (see Section 1.e.). The Government responded to both reports by noting the number of steps that the Government had taken during the year to address abuses.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Members of the security forces, including the military, and federal and state police, were accused of committing a number of killings during the year.

There also were a number of unsolved killings with possible political connections. For example, on May 3, Fidel Bautista Mejia, a local Democratic Revolutionary Party (PRD) activist in Putla, Oaxaca, was killed shortly after registering as a candidate for the state legislature. According to the PRD human rights office, state authorities arrested Vicente Pena Zuniga and Nicasio Bernardino Lopez for the crime. Another suspect, the brother of a PRI local deputy candidate, was alleged to have hired Pena and Bernardino to kill Bautista.

On July 5, Everardo Obregon Sosa, a municipal PRD leader in Sinaloa, was killed in the city of Culiacan by three unknown assailants armed with AK-47's and pistols who tried to force him into a vehicle. The state Attorney General's office was investigating at year's end. Media reporting has linked the incident with narco-trafficking.

On January 17, soldiers of the army's 27th Infantry Battalion shot and killed 14-year-old Esteban Martinez Nazario near the community of Lindavista, Guerrero. The soldiers alleged that while on a routine drug patrol, they saw Martinez and his brother on a hill near a field of poppies and called for them to halt. When the boys ran, the soldiers claimed that they fired four warning shots, one of which hit Esteban in the leg. They maintained that they did not realize anyone had been shot. However, community members reported that the soldiers should have seen Esteban

stumble or fall from his wound. In June the press reported that General Jaime Antonio Lopez Portillo, the military's chief prosecutor, stated that the soldiers had been hunting deer. The state indemnified the Martinez's family \$22,222 (200,000 pesos) for damages. A military spokesman said that eight soldiers—an officer and seven enlisted men—were imprisoned in Mexico City awaiting military judicial proceedings in the case. The authorities charged the officer with abuse of authority, disobedience, giving false testimony, and covering up a crime; a sergeant was charged with abuse of authority and felony murder, and six infantry soldiers were charged with felony murder.

On January 21, soldiers from the army's 88th Infantry Battalion, based in Tecoman, Colima state, opened fire on a meeting of approximately 150 recovering addicts in the community of Rancho Viejo; Rodrigo Torres Silva was killed and 16-year-old Yuliana Mercado Vargas was wounded seriously. Press reports indicate that the soldiers were on patrol and responded to a complaint about the group. When they saw campfires and heard shouts, they approached the group to investigate. For undetermined reasons, one soldier opened fire, prompting others to fire as well. The State Public Ministry arrested 16 soldiers and took them into custody. Sergeant Brigido Santiago Ponciano Tepach was charged with homicide and unauthorized discharge of his weapons. The other 15 soldiers also were charged with unauthorized firing of their weapons, a charge that carries a 2-year sentence. Ponciano remained in jail at year's end.

On May 10, federal police officers Jorge Encarnacion Perez Barreto and Fabian Garcia Venegas opened fire on persons at a Mother's Day party. They killed Hector Manuel Bear Alvarez and wounded six others. The officers alleged that they followed the victim to his home because he stole a vehicle from PGR custody, but family members denied the accusation and said that the police officers were following the victim for unspecified reasons. The two officers were arrested for murder and assault and remained in custody and on trial at year's end.

In May the body of Jesus Carrola, former chief of the Mexico City judicial police force, along with those of his two brothers, was found in a parked car in a side street in the capital. According to press reports, they were abducted by armed men the day before they were found.

On June 17, the body of Alfonso Escamilla Casimiro was found in his cell after he had been detained by three municipal police officers in Teoloyucan, Mexico state. The family was told that Escamilla hanged himself in his cell. The family alleges that he was beaten, noting bruises on his face and blows to his head. The Mexico State Human Rights Commission was investigating the case at year's end.

Mexico state police officers shot and killed 10-year-old Roberto Blancas. The officers allegedly were trying to rob the boy's family of money that they had just withdrawn from a cash machine. The authorities subsequently dismissed the police officers.

On November 20, Raul Varela Meza, Juan Antonio Chavez, Eduardo Ramirez, and Lorenzo Barraza were abducted after leaving a nightclub in Ciudad Juarez. On November 25, their bodies were found in an empty lot in a highly populated area of the city. A witness implicated two municipal policemen, who were suspended during the ongoing investigation. The Association of Relatives and Friends of Disappeared persons held a public protest against the authorities, who denied any involvement in the crime.

There were several killings of journalists during the year, allegedly by narcotics traffickers (see Section 2.a.).

On October 19, Digna Ochoa y Placido, a noted human rights lawyer, was found dead of bullet wounds in her office (see Section 4).

There were a number of deaths in prisons during the year (see Section 1.c.).

There were numerous reports of executions carried out by rival drug gangs, whose members included both active and former federal, state, and municipal security personnel. Throughout the country, but particularly in the northern border states, violence related to narcotics trafficking continued. It was estimated that more than 200 gangs operate in the state of Sinaloa. On February 14, in the town of El Limoncito, Sinaloa unknown masked assailants opened fire with AK-47 assault rifles on 12 men and boys as they were celebrating a birthday party. The state Attorney General and law enforcement officials believe that the killings were gang-related among mini-cartels. At year's end, no one had been detained in connection with the killing. Between January 1 and August 31, 36 murders with presumed or proven drug connections occurred in the Ciudad Juarez, Chihuahua area. The manner of the killings shifted from the kidnappings and disappearances of the mid-1990's to armed attacks in public areas throughout the city, in which intended targets and innocent bystanders were victims.

The police and military were accused of committing serious human rights violations as they carried out the Government's efforts to combat drug cartels. In the first 80 days of the Fox administration, there were nearly 2,000 arrests nationwide connected to drug trafficking. Although narcotics-trafficking organizations committed many killings, human rights groups allege that security forces were responsible for some of the killings generally attributed to narcotics traffickers or other criminals, including some the bodies discovered in Chihuahua in December 1999 (see Section 1.b.). The Association of Families of Disappeared Persons alleged that the security forces were behind many disappearances in the past and has argued that cases were not investigated properly due to the presumed complicity of personnel from the security forces.

There were no developments in the July 2000 hanging deaths near El Quelite, Sinaloa state of five men with known drug connections whom witnesses allege were detained by individuals in PFP uniforms.

State authorities and the Oaxaca State Human Rights Commission ruled that the June 2000 death of Artemio Antonio Perez, a PRD supporter who died in his jail cell in Mixistlan de La Reforma, Oaxaca, after being arrested during a PRI political rally, was a suicide. There were no developments in the investigation into the presumed suicide of Jose Manuel Urbina, who was found drowned in a Durango state security facility in June 2000.

According to the Guerrero State Human Rights Commission, in 1999 Angel Guillermo Martinez Gonzalez and his wife, Virginia Montes Gonzalez, were arrested and imprisoned in connection with a 1999 attack on Acapulco City councilor-elect Marco Antonio Lopez Garcia and his family. In June Montes Gonzalez was released; Martinez Gonzalez remained in prison at year's end.

There also were no new developments regarding the August 1999 arrest of Tamaulipas PGR officials charged with the murder of fellow PGR official Jaime Rajid Gutierrez Arreola or the May 1999 killing of one immigrant when federal fiscal police opened fire on a van containing 23 persons. There were no developments in the 1999 killing in Guerrero of Aurelio Penaloza Garcia, a former state attorney general and PRD advisor by men dressed in Federal Judicial Police uniforms and armed with automatic weapons. The PRD human rights office solicited information about Penaloza Garcia and Lopez Garcia from the state Attorney General's office but did not receive a reply.

There were no new developments, nor are any likely, in the October 1999 death of Cossem Demian Sanchez Sastre, a member of the Zapatista National Liberation Front (FZLN), who was found dead in his cell in a Tijuana detention facility.

In October 2000, a court sentenced municipal police officer Lauro Gomez Vega to 15 years and 1 month in prison for the June 1999 murder of municipal worker Mauricio Martinez Hernandez, in Naucalpan, Mexico state. Gomez Vega indemnified Martinez Hernandez's family \$3,000 (27,000 pesos), and the local government indemnified the family \$7,778 (70,000 pesos). An arrest warrant for another police officer was issued in the case; however, the individual had not been apprehended at year's end.

Of the 102 persons originally detained in connection with Acteal, 82 remained in detention, and 57 had been convicted and sentenced. Of these 51 were serving their sentences, and 6 had their sentences overturned in November based on lack of evidence and were released. There were 23 cases still active in the courts, 8 investigations still underway, and outstanding warrants for 29 others.

On August 24, the authorities released Manuel Moreno Gonzalez, a police officer with supervisory responsibilities convicted in connection with the 1995 Aguas Blancas massacre of 17 indigenous farmers; he had served 6 years of his 19-year sentence. A Guerrero appeals court overturned the earlier conviction on grounds of insufficient evidence. Of the 44 public officials originally arrested in connection with the Aguas Blancas massacre, 22 have been convicted and sentenced. Of these, eight police officers and one government official, the former Director of the State Government Ministry, Esteban Mendoza, remained in jail at year's end. Despite recommendations by the Supreme Court, the IACHR, and the U.N. Rapporteur on Extrajudicial Executions, former Governor Ruben Figueroa Alcocer has not been investigated or prosecuted for his alleged involvement in the massacre. The Guerrero state government has indemnified the victims' families, and both the federal and state governments previously had considered the case resolved. However, during a July visit of IACHR representatives, Undersecretary for Human Rights Acosta agreed to the creation of working groups to reexamine this and other cases (see Section 4).

On August 18, unknown armed assailants killed a PGR official and wounded a Judicial Police agent in El Bosque municipality, Chiapas. On September 5, seven inmates escaped from the state penitentiary in Mexicali, Baja California; three of

the inmates still at large from the escape were implicated in the execution-style murder of three state police agents early in the year (see Section 1.c.). On September 9, unknown assailants killed one policeman and wounded two in an ambush in El Bosque. The federal Attorney General's office was investigating the August incident at year's end. On October 4, state police arrested two individuals in connection with the September incident and charged them with homicide, robbery, and illegal weapons possession.

In November gunmen shot and killed two federal judges in Mazatlan, Sinaloa state. In response, the governor of the state ordered police protection for all federal judges in the state.

There were no developments during the year related to the June 2000 ambush in El Bosque that left seven Chiapas state policemen dead. In July 2000, the PGR arrested PRI supporter Alberto Patishtan Gomez and EZLN supporter Salvador Lopez Gonzalez in connection with the ambush, on charges of murder, robbery, and possession of illegal weapons. The PGR charged that Patishtan and Lopez were part of an armed 10-person group that carried out the attack. Patishtan later was released for lack of evidence and the Fray Bartolome de Las Casas Human Rights Center continues to maintain Lopez's innocence, claiming there was insufficient proof against him as well. He remained in custody at year's end.

There were no developments in the June 1999 murder of Jose Hidalgo Perez in San Cristobal de Las Casas, Chiapas. In July 2000, Juan Lopez and Gabriel Luis Hernandez Gomez were arrested in connection with the case and continued to await trial. According to the Miguel Agustin Pro Juarez Human Rights Center (PRODH), harassment of the Hidalgo Perez family continued during the year, and unidentified individuals fired shots in front of the family home in March and April.

On September 18, a court sentenced Juan Emilio Yee Compean and Rafael Ureta Leon to 12 years and 10 months imprisonment for the January 1999 murder of Jorge Aguirre Meza, cofounder of the Sinaloa Human Rights Defense Commission and a mayoral candidate in the municipality of Navolato.

There were no developments in the January 1999 killing of villagers in Tzacabel, Chiapas.

According to an August report by the PRODH, vigilante violence continued during the year, and has resulted in the deaths of 73 persons from 1993 to 2000. On July 25, a mob of approximately 400 persons in Magdalena Petlacalco, a village outside Mexico City, beat Carlos Pacheco Beltran to death for trying to steal from a neighborhood church the jewelry left as offerings during a patron saint festival. Mexico City police were investigating the incident at year's end.

b. Disappearance.—On June 1, the federal legislature passed an amendment to the penal code that adds forced disappearances of persons to the list of punishable abuses of authority by public officials. The definition of forced disappearance under this amendment includes sponsoring or covering up a disappearance, including illegal detention (see Section 1.d.), whether or not the individual participated in the detention itself. Public servants found guilty of forced disappearance can be sentenced to 5 to 40 years' imprisonment. There continued to be credible reports of disappearances. NGO sources continued to report that many disappearance cases were in fact cases of prolonged detention by security forces (see Section 1.d.). According to Amnesty International, the number of reported disappearances has declined steadily over the past 4 years; however, several hundred past disappearances never have been resolved satisfactorily.

Numerous human rights groups reported the suspected disappearance of Faustino Jimenez Alvarez on June 17. According to his family, State Judicial Police officers abducted him from his home in Tierra Colorada, Guerrero, in the middle of the night without a warrant, and threatened violence when family members attempted to intervene. The authorities subsequently denied holding him in custody. His whereabouts remained unknown at year's end. On July 2, his family lodged a formal complaint with the state Attorney General's office and with the Guerrero State Human Rights Commission. On July 11, the Christian Action for the Abolition of Torture (ACAT) reported the alleged disappearance to the IACHR, and the PRODH sent the report to the U.N. Working Group on Disappearances. There were unconfirmed reports that detention orders were sent for two state judicial police officers, who have not been located.

On November 27, the CNDH's Special Program on the Presumed Disappeared (PREDES) released a report on the presumed forced disappearances of 532 persons, the majority dating from the 1970's. In its detailed report, the CNDH concluded that proof of forced disappearance with the involvement of public authorities exists in 275 cases; there is some proof to support more than 90 additional cases. According to the Center, in all of the cases the disappeared persons were victims of physical torture or other forms of inhumane or degrading treatment. All of the individuals

were detained without proper arrest warrants (see Section 1.d.). The CNDH report stated that 37 agencies (25 state, 7 municipal, and 7 federal) and 74 government officials (59 federal and 15 state) were responsible for the disappearances. The President announced the creation of a special prosecutor to pursue the cases in the criminal justice system. In addition, he stated that a support committee of five civil society leaders is to assist the PGR in the investigation. In August CNDH President Jose Luis Soberanes reported that the National Security and Investigation Center (CISEN) and the National Defense Secretariat cooperated with the CNDH and made all of their files available. On December 9, the magazine *Proceso* published photos showing that paramilitary forces hired to provide security during the 1968 Olympic games apparently participated in arrests, beatings, and killings of student protestors on October 2, 1968. The special prosecutor also has been charged with investigating these cases.

There were no developments in the March 2000 disappearance in Ajuchitlan del Progreso, Guerrero, of Maximino Marcial Jaimes, a member of an environmentalist organization who was abducted by gunmen. PRODH claimed that the press had reported that Marcial was in Almoloya prison, but the prison officially denied his presence there. His whereabouts remained unknown at year's end. During the year, the case was forwarded to the CNDH program on disappearances for investigation.

In August 2000, military police arrested General Arturo Acosta Chaparro on charges of narcotics trafficking and assisting a drug cartel (see Section 1.c.). General Acosta also was accused of complicity in the disappearance and torture of several persons in Guerrero during the 1960's and 1970's, and remained in custody at year's end.

In April organizations representing the families of the disappeared informed the PGR of the existence of an alleged mass grave where the military buried leftists rebels in the 1970's. In May the authorities found a site in Sierra de Atoyac, Guerrero State; however, PGR officials and anthropologists working with them determined that the bones were animal remains.

There were no new developments in the 1999 recovery of nine bodies from graves outside Ciudad Juarez, Chihuahua. All of the victims were believed to have had ties to drug trafficking. Federal authorities confiscated the ranch where the bodies were found but the courts ordered it returned to its owner in July 2000. The Chihuahua-based Committee for the Defense of Human Rights alleged that military and police forces were responsible for some of the disappearances. The Association of Families of the Disappeared Persons alleged that because the security forces were responsible for many of the disappearances, the cases were not investigated properly.

According to the national public security system, there were 732 kidnappings for ransom during the year. Many kidnappings were not reported. According to the newspaper *La Jornada*, the number of kidnappings from January 2000 through May exceeded 600. According to the Attorney General's Office in the Federal District, there were 101 reports of kidnapping in the Federal District between January and August, compared with 141 kidnappings in 2000. Prosecutors in the Federal District have dismantled 14 kidnapping rings during the year and indicted 70 kidnapers. In August 2000, Mexico City's Legislative Assembly passed a law to impose mandatory minimum sentences of 15 to 20 years for Mexico City public servants convicted of kidnapping. Four kidnappings were reported in Chihuahua State between January and August; two were resolved with seven arrests made and two remained unsolved at year's end. None of the suspects detained are public officials. According to the press, the state of Mexico reported 36 kidnappings through August, with 3 cases still unresolved. Mexico State's Attorney General stated that the number of kidnappings has remained stable in the state. In Michoacan police broke up 89 kidnapping rings between 1996 and 2000, resulting in 500 arrests.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit torture; however, it continues to be a serious problem. The Constitution excludes as evidence confessions obtained in the absence of the accused person's defense attorney, and the law excludes coerced confessions, including those extracted under torture (see Section 1.e.). However, the police regularly obtain information through torture, prosecutors use this evidence in courts, and the courts continue to admit as evidence confessions extracted under torture. The military also has been accused of using torture. According to a July Amnesty International report, victims and human rights workers who report or criticize the practice of torture often were the targets of intimidation. Many victims were afraid to report or follow through on complaints against the police, thereby hampering prosecution of the perpetrators.

In her fourth annual report delivered in February, Guadalupe Morfin Otero, president of the Jalisco Human Rights Commission (CEDHJ), stated that the use of torture by law enforcement officials continued to be a problem. The CEDHJ received

40 complaints of torture during the year, only 5 of which were confirmed and documented; all 5 cases occurred in 1999 and were committed by state and local police. At a July U.N. seminar, then-Special Ambassador for Human Rights Acosta stated that torture is present within all public security and law enforcement agencies, including the armed forces. There were persistent reports by NGO's of the widespread use of torture by the police. In its July report, Amnesty International claimed to have received numerous complaints that indicate that torture is a habitual practice in many areas of the country, especially to extract confessions and information in place of police investigations. Amnesty International called for strict enforcement of the laws governing detentions to help prevent torture, and for constitutional reforms that include an unalterable provision expressly forbidding torture and ill treatment. On September 16, the CNDH said in a press release that there had been advances in the prevention and punishment of torture, since there was broad awareness of the issue and public debate on how to combat it, but the practice has not been eradicated.

The authorities rarely punish officials for torture, which continues to occur in large part because confessions are the primary evidence in many criminal convictions. Many human rights groups link torture to the prevalence of arbitrary detention, and claim that torture often follows an arbitrary arrest, sometimes without a warrant, as police or prosecutors attempt to justify the detention by securing a confession to a crime (see Section 1.d.). Poorly trained and inadequately equipped to investigate crimes, police officers often attempted to solve crimes by rounding up likely suspects and then extracting confessions from them by force. Amnesty International alleged in its July report that as a result those responsible for 95 percent of recorded crimes never are apprehended and brought to justice.

On February 10, three uniformed municipal policemen detained Alvaro Rayon Robles in Tlanepantla, Mexico State, to question him about his suspected participation in a rape. According to PRODH, prison guards beat and kicked Rayon Robles after he denied involvement in the rape, and demanded \$3,333 (30,000 pesos) in exchange for his release. When he refused, he was returned to his cell where he was held incommunicado. On February 12, he was brought before another Public Security Ministry official, who allegedly demanded \$1,667 (15,000 pesos) for his release, which Rayon agreed to pay without admitting culpability. He was released that morning. In February Rayon Robles filed a complaint through PRODH with the State of Mexico Commission for Human Rights and a legal complaint with the State Attorney General's office; neither organization had responded to the complaints by year's end.

On March 28, the CNDH charged four agents from the PGR with torturing a fellow PGR official, Norberto Jesus Suarez Gomez, the head of the PGR's Chihuahua State office, on February 26. The alleged torture occurred while Suarez was under house arrest on criminal charges for selling assignments to certain PGR posts. The PGR publicly denied that Suarez was mistreated and argued that medical and other evidence indicated that Suarez's wounds were self-inflicted and inconsistent with torture. The CNDH recommended that the PGR administratively investigate the conduct of the officials charged with guarding Suarez, perform a criminal investigation into the conduct of four PGR officials charged with torture, implement any and all necessary measures to ensure that those responsible were brought to justice, direct the Internal Control office to ensure that all investigations are carried out appropriately, and reexamine the results of the previous PGR findings. The PGR accepted the CNDH's recommendations and suspended 16 officials pending criminal and administrative investigations. On August 8, a court acquitted Suarez Gomez of the charges of selling posts, but he remained in custody on related illegal enrichment charges at year's end.

In April federal authorities apprehended Angel Abel Duran on drug charges in Chihuahua state. Abel escaped from the PGR detention center, and police officers beat him when they subsequently recaptured him. An internal police investigation into the incident continued at year's end. Abel identified his attackers but no date for a final hearing had been set and the policemen accused of the beating were not in custody.

On May 8, five municipal police officers, including Jeronimo Mendez Gomez, Enrique Guzman Mendez, and Gabriel Camara Hernandez, detained and beat Pascual Cruz Lopez and Mariano Cruz Montejo in Palenque, Chiapas. According to PRODH, the police took the money, \$456 (4,100 pesos), the men were carrying and took them to their supervisor, where they were forced to sign confessions that they had been inebriated and had beaten someone. In addition, the police demanded that they each pay \$22 (200 pesos) to be able to leave. They were released the following day and according to human rights NGO's were threatened with death if they reported what had happened.

On May 18, Federal Judicial and municipal police detained without a warrant Luis Manuel Hernandez, Jose Luis Castellanos, and Jose Luis de la Torre in Venustiano Carranza, Chiapas and accused them of kidnaping Oscar Gabriel Lopez. The Fray Bartolome de las Casas Human Rights Center in Chiapas reports that the police beat the three men and covered one individual's head with a plastic bag before burning him with a lighter. The three men allege that they signed confessions to stop the mistreatment. The investigating judge did not accept as evidence their subsequent declaration of torture, and they remained in custody at year's end.

In June three police officers in Monterrey, Nuevo Leon, stopped Juan Francisco Alcocer Flores for unspecified reasons. In detention, officers beat him, breaking one of his ribs. He was detained for 3 hours before being released and told his arrest had been an error. No charges have been filed against him.

There were no developments in the investigation into the August 2000 torture allegations by Ivan Ramirez and Israel Moline in Nueva Italia, Michoacan.

On November 10, the President ordered the release of environmental activists Rodolfo Montiel Flores and Teodoro Cabrera Garcia, on humanitarian grounds. Previously, on July 17, a judge had upheld the August 2000 sentences of Montiel and Cabrera for weapons and drug charges, despite the presentation of additional medical documentation by independent physicians regarding the two men's claim of torture.

Montiel and Cabrera had been arrested in 1999 on charges of illegal drug cultivation and illegal possession of arms, and their colleague Salome Sanchez Ortiz was killed by the military. The two men claimed that military personnel tortured them to extract confessions.

An arrest warrant was issued for a member of the state police force for his suspected involvement in the July 2000 beating of four Central American migrants in Ecatepec, Mexico state. The police agent who was sought on charges of abuse of authority, and assault and injury, was detained but subsequently released.

There were no developments in the June 2000 case of Jose Luis Mendez Briano and Fernando Martinez Beltran, who allegedly were tortured after being arrested while making their getaway from a robbery.

In July Amnesty International reported that the authorities subjected the estimated 130 indigenous Zapotecs detained between 1996 and 2000 in the Loxicha region of Oaxaca to torture and death threats.

There were no developments in the case of the former president of the Guerrero state PRD, David Molina Francisco, who alleged that he was held hostage for 40 hours by military personnel in April 2000.

On January 13, the CEDHJ concluded that the January 2000 detention of former armored car guard Jesus Galvan Ortiz in Guadalajara, Jalisco was illegal; however, there was insufficient proof of torture. The CEDHJ report also seemed to exonerate Attorney General Ledesma Martinez, who had resigned shortly after the case, of wrongdoing.

On June 14, the IACHR agreed to admit a complaint filed by representatives of Santos Soto Ramirez who alleged that in 1995 police agents tortured him for 4 days into signing a confession in Xalapa, Veracruz.

A 1998 report by the IACHR described a definite pattern of rape and sexual assault against women committed by members of the security forces. The Commission stated that some women had been assaulted sexually by law enforcement officials, particularly those in detention, or had been assaulted by others with the officials' consent. Two Ciudad Juarez municipal police officers were arrested in 2000 for rape, one was charged with committing the crime against a family member and the other against a former fellow officer. Both officers were convicted in December 2000; further information was unavailable.

There were no developments in the June 2000 rape and beating of Maria de Carmen Dominguez. In June 2000, municipal police in Matias Romero, Oaxaca, had arrested Rolando Jesus Vazquez Vargas, a sergeant in the 6th artillery regiment, in connection with the case and were searching for two other men. In July 2000, Chihuahua state judicial police arrested three soldiers for raping and beating a tourist. A court convicted two soldiers, sentenced them to 4 years imprisonment, and acquitted the third soldier.

Many citizens distrust the justice system, including law enforcement officials, and are reluctant to register official complaints.

In conjunction with the technical cooperation of the U.N., the Government began an initiative to create a national standard regulating medical investigations of torture. A draft national standard, based on the Istanbul Protocol on the Effective Investigation and Documentation of Torture, was being drafted at year's end to decrease the amount of discretion exercised by judicial officials in determining the credibility of torture allegations.

Police abuse and inefficiency hamper investigations. For example, in April 2000, a court overturned on appeal the 30-year sentence of Abdel Latif Sharif, convicted in connection with the string of murders of over 200 women since 1993 in Ciudad Juarez (see Section 5). The appeal was based on lack of consistency in the autopsy reports. Sharif remained in custody awaiting a new trial. Since his arrest in 1995, numerous other young women have been kidnaped, raped, strangled, and had their bodies dumped in the same areas of the desert where previous victims were found. Four bus drivers were in detention at year's end in a high security prison facility in Chihuahua and awaiting sentencing for allegedly committing the murders while Sharif was incarcerated. The bus drivers claim that they were tortured into confessing. During the year in Ciudad Juarez, 27 women were killed; on November 27, the bodies of 8 of the victims were found buried together. Two other bus drivers were detained and confessed to the crime; however, the bus drivers subsequently recanted, alleging that their confessions were given under duress. An investigation into their allegations of mistreatment was ongoing at year's end. Human rights organizations and the U.N. Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Kumaraswamy, who visited the country in May, strongly criticized the Government's limited progress in solving these murders. Police incompetence, prosecutorial ineptitude, and lack of investigative resources hampered this investigation.

Police corruption is a problem. Some law enforcement and military personnel have been known to have drug trafficking connections (see Section 1.e.). According to news reports, one officer was fired each day during the year in Mexico City for misconduct ranging from armed robbery to beating suspects and accepting bribes.

Police extorted money from street children, at times abused homosexuals (see Section 5), and violated the rights of illegal immigrants (see Section 2.d.).

Francisco Hernan Cortes, one of the presumed attackers in the 1999 attempt on the life of PRD Senator Hector Sanchez Lopez and two companions, remained in jail at year's end awaiting trial in Oaxaca.

Prison conditions are poor. In June the CNDH announced that it had issued 385 recommendations to prison administrators at both the state and federal level. Many prisons are staffed by undertrained and corrupt guards. Prisoners complain that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be brought in from outside. In many prisons inmates exercise authority, displacing prison officials. Influence peddling, drug and arms trafficking, coercion, violence, sexual abuse, and protection payoffs are the chief methods of control used by prisoners against their fellow inmates.

The penal system consists of 446 facilities: 5 federal penitentiaries, 8 federal district prisons, 330 state prisons, and 103 municipal and regional jails. According to the CNDH, as of October 2000, there were 154,843 prisoners in the country; 65,090 were serving their sentence, and 89,753 were awaiting sentence. Although the Constitution calls for separation of convicted criminals from detainees held in custody, in practice these requirements were violated routinely as a result of overcrowding. Prison overcrowding continued to be a common problem, despite an early release program endorsed by the CNDH, legal reforms that reduced the number of crimes that carry mandatory prison sentences, and the construction of new prisons. According to the CNDH, the country's 446 penal facilities are overpopulated by approximately 29 percent; 154,793 prisoners are being held in facilities that have a capacity of 120,344 prisoners. In June the CNDH announced that in Baja California and Sonora, prisons are more than 181 percent overpopulated; in Nayarit the rate of overpopulation is 92 percent, in Chiapas 95 percent, in Sonora 82 percent, in Tamaulipas 69 percent, in Oaxaca 56 percent, in Puebla 55 percent, and in the Federal District 48 percent. The prisons with the largest overpopulation are: Reclusorio Norte, Reclusorio Oriente, and Reclusorio Sur in Mexico City, the state prison in Ciudad Juarez, and La Mesa in Tijuana. In August the newspaper *Reforma* reported that the total capacity of existing facilities in Mexico City is 14,000, but that there were slightly more than 22,000 inmates.

In Ciudad Juarez, Chihuahua, the state prison increased its inmate capacity from 700 to 1,940; however, the facility housed 3,036 inmates. In October 2000, construction began on a second penitentiary (1,500 beds) in Ciudad Juarez to ease overcrowding and on a new juvenile detention facility. Construction on both facilities, originally scheduled for completion during the year, is not expected to be complete until the second half of 2002. The delay is attributed to budget problems and bureaucratic infighting over maintenance responsibilities. The city government assumes the costs associated with upkeep of the prison, although state or federal entities are normally responsible for most such facilities.

Health and sanitary conditions are poor. In May 2000, doctors at a prison in Nuevo Laredo resigned, citing unhealthy conditions such as inadequate food and

water as the reason for their resignations. They stated that conditions such as mangle, HIV/AIDS, and tuberculosis are known to the authorities, who fail to take any action to treat and segregate sick inmates. In March the CNDH reported that HIV/AIDS and associated illnesses were the leading cause of death among inmates in the Federal District. The deaths of 20 inmates from HIV/AIDS-related complications in 2000 underlined the need for awareness, prevention, and treatment programs. The CNDH also noted that HIV-positive prisoners are subject to mistreatment and discrimination in prisons (see Section 5). For example, the Multisectoral Group of Citizens with HIV/AIDS claimed that 30 HIV-infected inmates in the state prison in Merida, Yucatan, suffered discriminatory treatment and insufficient access to healthcare. There were no developments in the case of Eugenio Almaraz Garcia, who died in February 2000 from presumed neglect by the director of the Pochutla, Oaxaca prison.

The authorities investigated some prison officials for abusing prisoners; however, they more commonly dismissed those who commit abuses or charged them with only minor offenses. Drug and alcohol abuse was a problem in prisons. In July the Ciudad Juarez prison director cited a study that showed that as many as 80 percent of the prisoners in the facility used some type of drug—heroin was the most common. On July 18, officials confiscated more than 400 weapons including homemade knives, heroin, cocaine, drug lab paraphernalia, a cellular telephone, and elaborate peso counterfeiting materials during a sweep of the facility. The authorities fired 15 guards for operating or allowing such operations to exist inside the prison. Control is difficult with 60 guards available on each shift to monitor more than 3,000 prisoners and up to 1,500 visitors daily.

In 2000 a Baja California state official estimated that 80 percent of the state's prison population was addicted to drugs. Conflicts between rival prison groups involved in drug trafficking continued.

Corruption and poor prison conditions led to riots and escapes. On January 19, Joaquin Guzman-Loera, alias "El Chapo," escaped from his jail cell at the Puente Grande maximum-security prison near Guadalajara, Jalisco state. He went through electronic magnetic doors, past video cameras and motion sensors to the trash depository, and then boarded a waiting laundry truck to exit the prison. In early 2000, prison employees, who reportedly were being mistreated because they were resisting corruption, had approached the Jalisco state human rights commission. The commission had been complaining since then about security at the prison. Just 4 days before Guzman's escape the CNDH alerted the Office of the Secretary of Public Security about the lax security at Puente Grande. Prison staff helped orchestrate the escape, and 33 individuals were charged with conspiracy; 50 guards and former officials at the prison were being tried in connection with the escape at year's end.

In March Fernando Gutierrez, the warden of the prison in Uruapan, Michoacan, was shot and killed. Police surmised that his killing was due to the imposition of a security crackdown in the prison.

On August 1, 12 inmates led by Jose Luis Mancilla took 4 guards hostage and demanded a helicopter to escape from the municipal jail in Tazmazula, Jalisco. According to wire services, the mother of a convicted murderer reportedly smuggled in the pistols used in the uprising. When authorities did not meet demands, Mancilla shot two guards in the head and committed suicide. Riot police then stormed the jail. One inmate died of gunshot wounds and two were hospitalized. State police regained control of the jail, and 21 prisoners were transferred to a nearby maximum-security facility after the riot.

On September 5, seven inmates escaped from the state penitentiary in Mexicali, Baja California, following a shootout with prison guards. Two of the inmates, wounded during the gunfire, were recaptured immediately. Three of the inmates still at large from the escape were implicated in the execution-style murder of three state police agents early in the year. This was the second major escape from the Mexicali prison in 2 months. The State District Attorney in Mexicali accused the prison director, the director of the state bureau of prisons, and the commander of the prison guards with having assisted the prisoners in the escape and ordered their detention; however, a judge released them on the grounds of insufficient evidence.

On October 2, more than 60 inmates were injured and 6 were killed during a riot at the Nogales Men's Prison Number 2. The cause of the riot is unknown; however, the prison was built to accommodate 1,500 inmates but at the time of the riot had a population of more than 2,300.

On November 8, four prisoners escaped from Chihuahua CERESO. The authorities arrested Director Ricardo Zamora Apam and Deputy Director Luis Rodriguez, 14 commanders, and 12 guards for their alleged involvement in the escape.

Female prisoners are held separately from men. Women make up approximately 4.4 percent of the prison population. Of the 444 prison facilities in the country, 230

of them house female prisoners. In August a Federal District Interior Ministry official announced that two gender-segregated prisons under construction in Mexico City are expected to be completed by 2002. The new men's facility is expected to house 3,000 inmates and the women's facility is expected to hold 1,200 inmates.

Juveniles are held separately from adults. The press reported that on November 26–27, prisoners in the Villas Crisol youth detention center in Berriozabal, Chiapas threw stones and set off homemade bombs. Approximately 400 police were brought in to control the rioting. Many of the youths were high on paint thinner and liquid glue and said that they were protesting poor living conditions that included bad food, dirty water, and a lack of medications.

There is no specific law or regulation that prohibits human rights organizations or other NGO's from visiting prisons, and some do; however, in practice, the CNDH and state human rights commissions conduct the majority of prison visits focused on human rights issues. The International Committee of the Red Cross (ICRC) is able to visit prisoners in Chiapas based on a July agreement with the Government. For permission to visit prisoners in Oaxaca and Guerrero, the ICRC must apply on a case-specific basis to the Ministry of Foreign Relations.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, the police continued to arrest and detain citizens arbitrarily (see Section 1.b.). Arbitrary arrest and detention were among the most common human rights abuses. Legally, a prosecutor may hold a detainee no more than 48 hours before he must present the accused to a judge, except when the accused is caught in the act or within 72 hours of committing a crime. On June 1, the federal legislature criminalized forced disappearance, including illegal detentions; the law also prohibits sponsoring or covering up an illegal detention (see Section 1.b.).

NGO sources report that a great number of disappearances eventually are found to be cases of arbitrary detention by security forces (see Section 1.b.). In June the Government amended the penal code to add forced disappearances of persons (defined to include illegal detention) to the list of punishable abuses of authority by public officials (see Section 1.b.). If the victim is freed within 3 days of the detention, the sentence ranges from 8 months to 4 years; if the victim is freed within 10 days, the sentence ranges from 2 to 8 years. Many human rights groups link torture to the prevalence of arbitrary detention, and claim that torture often follows an arbitrary arrest, sometimes without a warrant, as police or prosecutors attempt to justify the detention by securing a confession to a crime (see Section 1.c.). According to PRODH, incommunicado detention is a frequent practice (see Section 1.c.).

Reports of arbitrary detention occurred with greatest frequency in Tabasco, Guerrero, Chiapas, the Federal District, and Oaxaca. States' attorney general personnel, state police, and the army were the most frequent abusers of detention laws. On June 6, the newspaper *La Jornada* reported that between January and June, the Attorney General's office had received 62 complaints for arbitrary detention and an equal number for detentions longer than the legal limit.

Between January 1999 and June, the CNDH received complaints regarding 323 incidents of arbitrary detention and requested that government authorities open investigations of 81 public servants from various public security forces. In June the CNDH reported that arbitrary detentions constituted a common practice of the Federal Judicial Police as well as of other police bodies, and issued a general recommendation to the Attorney General (PRG) and the Secretary of Public Security (SSP) on the subject. The CNDH urged the PRG and the SSP to expand human rights training concerning arbitrary detention; to issue specific orders to their police forces to halt arbitrary detentions immediately; and to instruct prosecutors to protect persons who may have been detained arbitrarily.

On January 13, the CEDHJ concluded that the January 2000 detention of former armored car guard Jesus Galvan Ortiz in Guadalajara, Jalisco, was illegal. Galvan had claimed that Jalisco state police arrested him and tortured him (at the home of the wife of the then-state attorney general) to extract a confession to a robbery. The CEDHJ concluded that there was no bodily evidence that he had been tortured.

The Constitution provides that the authorities must sentence an accused person within 4 months of detention if the alleged crime carries a sentence of less than 2 years, or within 1 year if the crime carries a longer sentence. In practice, judicial and police authorities frequently ignored these time limits (see Section 1.e.). Criminal defendants often were held with convicted prisoners (see Section 1.c.). There were reports that police demanded bribes to release suspects (see Section 1.c.). Many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges (see Section 1.e.). Those able to pay were released from custody. Corruption is rampant throughout the criminal justice system.

Judges often failed to sentence indigenous detainees within legally mandated periods (see Section 1.e.). In 1996 the CNDH reviewed 8,661 files of indigenous persons

who were detained and recommended the immediate release of 1,727 persons. Of those states with the largest numbers of indigenous prisoners, the CNDH reviewed 2,222 cases in Oaxaca, and recommended 407 releases, of which 296 had been accomplished by the end of 1998; 1,219 cases in Veracruz, with 331 recommendations for release and 245 releases; and 639 cases in Puebla, with 157 releases recommended and 61 releases. In 1999 the CNDH signed an accord with Secretariat of Government, the PGR, the Federal Institute of the Public Defense office, and the National Indigenous Institute (INI) to develop a program for the early release of indigenous prisoners in federal prisons. CNDH intervention reportedly resulted in the early release of 802 indigenous prisoners in 1998, 1,197 in 1999, 596 in 2000, and 531 during the first 11 months of the year.

Federal prosecutors continued to adhere to the INI's recommendation that they drop charges against indigenous first-time offenders accused of drug cultivation, as drug traffickers often forced indigenous defendants, who were not aware of the legal significance of their actions, to grow the crops. The INI also supports programs to provide translators for indigenous defendants and to assist them in obtaining bail bonds.

Some human rights groups have claimed that activists arrested in connection with civil disobedience activities are in fact political detainees. The Government asserts that the system fairly prosecutes those charged in sometimes violent land invasions for common crimes, such as homicide and damage to property.

The law does not permit forced exile, and it is not practiced.

e. Denial of Fair Public Trial.—The judiciary is generally independent; however, on occasion, especially at the state level, it has been influenced by government authorities. Corruption, inefficiency, impunity, disregard of the law, and lack of training are major problems. For example, many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges, and authorities frequently ignored limits on pretrial detention (see Section 1.d.). Judicial reforms have begun to address some of these problems, but full resolution of these problems requires significant additional time and effort. In 1999 the Congress and the states passed constitutional reforms designed to streamline the administration of justice and repeal archaic laws. Human rights groups criticized these reforms, claiming that they effectively allow prosecutors to disregard defendants' allegations of violation of due process during criminal proceedings.

In May U.N. Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Cumaraswamy, conducted a 10-day evaluation mission. In a strongly worded press conference, the Special Rapporteur, accompanied by Mariclaire Acosta, expressed dismay about the lack of public confidence in the justice system, and called for increased resources for state-level judiciaries and improved professionalism among judges and lawyers. He endorsed the notion of a national accounting for alleged past government misconduct and urged an end to the widespread de facto impunity enjoyed by corrupt officials. He urged the Administration to expedite its reform agenda if it hopes to regain public trust in judicial institutions. Based on his visits to the states of Chihuahua and Nayarit, Cumaraswamy also voiced his concern about the indigenous population's access to the justice system, and the inadequacy of investigations into violence against women in Ciudad Juarez during the 1990's (see Sections 1.c. and 5).

During the year, the Federal Judicial Council continued to strengthen administrative control over the judiciary, investigated cases of corruption, and removed some corrupt judges. In September 2000, the Institute for Professional Formation of the Mexico City Attorney General's office initiated workshops and courses directed at officials who deal with prosecutions; including the prosecutor's office, official secretaries, judicial police, and police group leaders. The course material encompassed case management, scientific investigation techniques, legal framework, and evidence collection. These workshops and courses continued through year's end. However, in a report released in December 2000, Human Rights Watch asserted that deficiencies in the administration of justice still were a major concern, and repeated its 1999 statement that judicial reforms have done little to improve the problems that plague the justice system. The December 2000 report stated that prosecutors not only ignored abuses by police but also fabricated evidence. Judicial oversight was seriously inadequate as the courts accepted evidence obtained through human rights violations (see Section 1.c.), and judges cited legal precedents that weakened human rights protections.

Following the November killing of two federal judges, the governor of the state requested police protection for all federal judges in the state.

The federal court system consists of a Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

Based on the Napoleonic Code, the trial system consists of a series of fact-gathering hearings at which the court receives documentary evidence or testimony. However, Amnesty International alleged in its July report that judges often are not present at hearings when defendants give testimony. Court officials may add notarized documents that are not authenticated into the case file. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties have access to the official file, although by special motion the victim may have access to it.

The Constitution provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the Government generally respects these rights in practice. In general, court hearings are open to the public, and it is common to find not only the accused, but also relatives of the accused and journalists in the courtroom. However, human rights groups have complained that many hearings take place in busy judicial offices where the public generally must stand at a distance and often cannot hear the proceedings well. In some courtrooms glass or plastic panels have been placed between the tables where the proceedings take place and the public.

While there is a constitutional right to an attorney at all stages of criminal proceedings, in practice the authorities often do not assure adequate representation for many poor defendants. Moreover, the public defender system is not adequate to meet the demand, although improvements in salaries and benefits have ameliorated this situation. Attorneys are not always available during the questioning of defendants; in some instances a defense attorney may attempt to represent several clients simultaneously by entering different rooms to certify formally that he was present, although he did not actually attend the full proceedings. Prosecutor salaries and benefits vary by region and agency. Federal prosecutors usually are paid better than state prosecutors.

In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often worse. The law calls for translation services to be available at all stages of the criminal process; however, the courts do not routinely furnish translators for indigenous defendants at all stages of criminal proceedings, and thus defendants may be unaware of the status of their cases. Provision of translators to non-Spanish speaking defendants, including indigenous ones, is provided for but poorly implemented, resulting in prisoners being convicted without fully understanding the documents they have been required to sign. The CNDH, through the Fourth Inspector General's office, has a program to assist incarcerated indigenous defendants. The INI also has judicial assistance programs for indigenous defendants and provides counsel on their behalf. The INI also distributes legal, educational, and informational material in indigenous languages.

A particularly serious abuse of due process is the prosecution's ability to base its case on evidence gathered by means of torture. While torture itself is a criminal act, judges allow statements coerced through torture to be used as evidence against the accused (see Section 1.c.) and confessions are the primary evidence in many criminal convictions. For example, in July a court upheld the August 2000 convictions of two environmental activists in Guerrero although they alleged that they had been tortured into signing confessions (see Section 1.c.). A number of NGO's have declared that judges give greater evidentiary value to the first declaration of a defendant, thus providing prosecutors an incentive to obtain an incriminating first confession and making it difficult for defendants to overturn such declarations.

The law does not require civil trials of soldiers involved in civil crimes, and the military continues to handle such cases. The Constitution provides for military jurisdiction for crimes or offenses involving any violation of military discipline. In cases in which a member of the military commits a crime and is arrested by civil authorities, the military has the right to request the immediate transfer of the case to military jurisdiction. Although the military still retains jurisdiction over its personnel in cases where its personnel have been accused of a crime against a civilian, in June it changed procedures to allow for limited civilian participation at the trials. The military cooperated with the PGR on investigations of counternarcotics cases involving soldiers and sailors. For example, on April 6, the Secretariat of National Defense (SEDENA) announced that charges had been brought against Brigadier General Ricardo Martinez Perea as well as two junior officers for their alleged links with the drug trafficking group the Gulf Cartel. On July 1, a federal judge sentenced retired General Jorge Mariano Maldonado to 26 years and 3 months in prison after finding him guilty of drug trafficking, money laundering, and organized crime. Maldonado Vega, who also served previously as director of the Federal District Police Academy, was linked to the Juarez Cartel. In August 2000, the military police arrested Generals Humberto Quiros Hermosillo and Arturo Acosta Chaparro on charges of narcotics trafficking and assisting the Ciudad Juarez-based Amado Carrillo drug cartel.

General Acosta also was accused of complicity in the disappearance and torture of several persons in Guerrero during the 1960's and 1970's. Both remained in custody as investigations continued at year's end.

In December Human Rights Watch issued a report that called on the Government to end military jurisdiction over all cases involving human rights violations. The report found that the military justice system lacks transparency because civilians are barred from monitoring the progress of investigations. In addition, investigations by the military are not accountable to civilian authorities.

According to the Foreign Ministry, on April 17, the CNDH concluded that allegations that the military had tortured or violated the human rights of Hildegardo Bacilio Gomez and the other incarcerated members of the military dissident group, the Patriotic Command for Raising People's Awareness (CPCP) were unfounded. All members of the CPCP were freed by January; however, there were no investigations into their allegations of torture, illegal arrest, and harassment of families.

There continued to be reports during the year of the harassment of human rights lawyers. Approximately 15 activists and lawyers were threatened and harassed during the year. Five human rights activists, Sergio Aguayo, Edgar Cortez, Miguel Sarre, Juan Antonio Vega and Fernando Ruiz, received death threat via a letter sent to la Reforma on October 28. In August unknown armed assailants tried to stop Marina Patricia Jimenez Ramirez' car, but she was able to get away. In September and October, unknown persons, impersonating her work colleagues, inquired about her exact travel itineraries at the local travel agency she used.

During the year, General Jose Francisco Gallardo was the only political prisoner. He maintains that he was sentenced to 28 years' imprisonment by a military court for publicly advocating the creation of a military human rights ombudsman (see Section 4). During the year, he received visits from Amnesty International. At year's end, Undersecretary Mariclaire Acosta and the Secretariat of Foreign Relations were studying a variety of legal mechanisms that would allow the Government and Gallardo's defense team to reach agreement on a means to comply with a 1996 IAHR recommendation calling for Gallardo's release.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the protection of privacy, family, home, and correspondence, and the law requires search warrants; however, in the past there were credible reports that unlawful searches without warrants were common, and there were reports of such searches during the year (see Section 1.c.).

The law allows for electronic surveillance with a judicial order. The law prohibits electronic surveillance for electoral, civil, commercial, labor, or administrative purposes. However, there were reports of illegal surveillance during the year.

On September 18, a Federal District judge ordered the arrests of 13 individuals for probable involvement in illegal telephone tapping operations. An investigation initiated in July by the PGR indicated that these persons formed part of a political eavesdropping and surveillance ring allegedly run out of the Mexico state governor's office. These individuals were accused of tapping telephone lines of state government employees and former employees for political purposes. PRI Governor Arturo Montiel Rojas denied responsibility for the activity. Alfonso Navarrete Prida, then Deputy State Public Security Secretary, and now Mexico State Attorney General, publicly suggested that the arrested individuals were disgruntled former officials performing freelance work. On August 22, the Mexico City daily newspaper *El Universal* reported that the PGR would charge the individuals with illegal phone tapping, rather than with organized crime charges carrying stiffer penalties.

The Inter-American Press Association (IAPA) noted in its annual report that several members of the media complained about finding evidence of incidents of telephone tapping by the Government's civilian intelligence organization, CISEN, part of the Secretariat of Government. In September 2000, a newspaper reported that unknown persons taped a phone conversation between then President-elect Fox and his spokesperson; the press speculated that it only could have been CISEN. However, no evidence was provided to support that charge, and CISEN denied responsibility. In December 2000, President Fox formed a committee, led by Secretary of Government Santiago Creel, Secretary of Public Security Alejandro Gertz Manero, Attorney General Rafael Macedo de la Concha, and then-security advisor Aguilar Zinser, to revise the practices and role of CISEN. Between January 8 and April 2, the committee conducted an exhaustive evaluation of CISEN. At year's end, the administration continued to work on its reorganization of national security agencies.

The Constitution states that all persons have the right to make free, responsible, and informed decisions on the number of children they choose to have. The 1984 General Health Law provides for criminal action against those who pressure a woman to undergo sterilization procedures or perform such procedures without a woman's consent. On September 9, Rodrigo Aguilar Martinez, the President of the

Episcopal Commission for the Family of the Roman Catholic Church, told the press that public health institutions “frequently” performed sterilizations in marginalized communities, especially indigenous areas. Aguilar claimed that priests and religious workers working in these areas were familiar with the problem, but that it was difficult to prove these cases if individuals decided to present their complaint to judicial authorities. Aguilar’s claims have not been corroborated by government sources, but various social welfare observers believed that forced sterilization occurred, although the incidence of these procedures is difficult to quantify. Women may not realize that procedures have been performed until after the fact, and many victims allegedly were reluctant to file complaints, although there are mechanisms for filing formal complaints with the National Medical Arbitration Commission and with national and state human rights commissions. The CNDH office in Chiapas reported in 2000 that in some indigenous communities women chose sterilization, but then due to fear of reprisal from their husbands report that it was forced upon them or that they simply did not understand the nature of the procedure.

In September the Undersecretary for Legal Issues for the state of Guerrero announced to the press that it was starting compensation procedures for 16 indigenous women who were sterilized by state health officials in 1998. In addition, the state health secretariat launched administrative procedures to sanction the personnel responsible.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—There were numerous allegations of the use of excessive force and the violation of international humanitarian law. During much of the year, the Government maintained approximately 20,000 troops in selected areas of Chiapas, and approximately half that number in Guerrero to handle the two relatively small rebel groups, the Popular Revolutionary Army (EPR) and the Revolutionary Army of the People’s Insurgency (ERPI). Incidents of conflict in Chiapas between security forces and EZLN sympathizers, and in Guerrero between the army and the EPR and the ERPI, led to accusations of the use of excessive force; however, the confused circumstances of these clashes made those allegations difficult to substantiate.

UNHCHR Robinson suggested in 1999 that the Government consider creating a military human rights ombudsman to combat impunity in the armed forces. In an interview with the newspaper *La Jornada* published in July 2000, CNDH president Jose Luis Soberanes responded that his agency was capable of dealing with complaints of violations by the military, and he also called for a restructuring of the military. Although SEDENA has not created an ombudsman, it did develop during the year a Program to Promote and Strengthen Human Rights, SEDENA 2001. In addition to offices in Chiapas and Guerrero to address citizen complaints of human rights violations, SEDENA worked to strengthen human rights training courses and materials. In coordination with CNDH and state human rights commissions, SEDENA provides its officers with training. SEDENA has trained 183 human rights trainers, who participate in 4-month courses and then are sent to various military installations to provide ongoing human rights training. During their 10 weeks of basic training, army enlistees receive a minimum of 1 hour of human rights training per day. In February the Jalisco Human Rights Commission reported that it had trained 7,640 soldiers in 5 states and had supported a CNDH course for generals in Oaxaca and Chiapas. The CEDHJ has been cooperating with SEDENA on training for 4 years. In December CNDH reported that had provided to 6,741 members of the armed forces, including members of the high command.

In a December 2000 press conference in La Realidad, Chiapas, the EZLN’s Subcommander Marcos stated that President Fox’s initial gestures to resolve the conflict in Chiapas were encouraging and welcomed the choice of Luis H. Alvarez as his Chiapas Peace Coordinator. The rebel leader also laid down five conditions for a return to dialog with the Government: Passage of the Congressional Chiapas Peace and Reconciliation Commission (COCOPA) bill (see Section 5), liberation of all EZLN prisoners, withdrawal of the army from EZLN territory and repositioning of the army to pre-1994 positions, closure of seven specific military posts in Chiapas, and no substitution of state police for army troops in the newly demilitarized areas.

In December 2000, the President sent to Congress the COCOPA bill to implement the 1996 San Andres Accords between the EZLN and the Government (see Section 5). On March 8, the Government of Chiapas announced the release of 84 EZLN prisoners from state jails, and on March 23, the President announced the release of 5 EZLN sympathizers imprisoned on federal charges. EZLN activists claimed that nine EZLN prisoners remain incarcerated.

In December 2000, the President ordered the removal of troops from seven Army bases in Chiapas. In addition he ordered the dismantling of 53 military checkpoints. On April 20, the army completed the dismantling of the last of the seven bases, fulfilling one of the conditions made by the EZLN for the resumption of peace talks

with the Government. The Government's objective was to reduce tension in certain areas. The troops were generally relocated to other bases. Two of the bases were converted into "centers for development" administered by the Secretary of Social Development (SEDES). These actions created a positive "new climate" in the region according to many human rights activists. However, on August 16, human rights organizations such as the Global Exchange and the Center for Economic and Political Research for Community Action (CIEPAC) charged that the military had not diminished its presence in Chiapas since President Fox assumed office. According to Global Exchange and the Center for Economic and Political Research for Community Action (CIEPAC), the army relocated its troops by opening new bases in the state to replace those that it had abandoned. Activists alleged that in the middle of the year the military intensified pressure on indigenous communities near Zapatista positions by conducting daily patrols and harassing, threatening, and interrogating locals. In an August 25 meeting, Secretary of Defense Gerardo Clemente Vega Garcia told members of the Congressional Chiapas Peace and Reconciliation Commission that any movements detected by citizens were part of normal troop rotations and not part of an intimidation campaign.

Following the passage in Congress of a revised COCOPA bill, on April 30, the EZLN publicly rejected the revised bill, broke off contact with the Government, and demanded the restoration of the provisions of the original COCOPA bill as the basis for renewing the contact with the Government (see Section 5). On December 8, Chiapas governor Pablo Salazar called on the Federal Government and EZLN leaders to restart peace talks. Salazar said that he respected the EZLN's decision to cut off contact with the administration following congressional approval of an amended version of the COCOPA bill and added that he believed that it was necessary to make changes to the law so that the Zapatistas would return to the negotiating table.

NGO's and others have alleged that in the process of dealing with rebels in Chiapas, Guerrero, and Oaxaca, the Government used excessive force. For example, in a July report, Amnesty International claimed that the authorities subjected the estimated 130 indigenous Zapotecs detained between 1996 and 2000 in the Loxicha region of Oaxaca to torture and death threats. The report also criticized the absence of due process in the handling of the cases of the 130 detained. The NGO ACAT also has criticized the use of torture against residents of Loxicha since 1996. In December 2000, President Fox announced his support for an amnesty for the EPR, the demilitarization of the Los Loxichas area of Oaxaca State, and a review of the arrests of alleged EPR members. In December 2000, the Oaxaca State legislature passed an amnesty law for local indigenous people (Loxichas) accused of having links to the EPR. As of August, 27 Loxichas were in custody, a decrease from a total of approximately 130 in 1997. Of these, 20 prisoners were being held on federal charges, and another 6 persons were acquitted of homicide charges but not released because of other charges pending against them. In February the state dropped arrest warrants against 50 Loxichas, according to press reports. Nevertheless, human rights groups maintain that authorities still were obligated to carry out effective investigations into allegations of human rights violations.

At year's end, there were no developments regarding the results of any of the military investigations recommended by the CNDH in October 2000 into the June 1998 battle in El Charco, Guerrero, between the military and alleged elements of the ERPI that resulted in the killing of 12 persons.

There were credible reports of violent incidents and murders committed by armed civilian groups and local political factions in Chiapas. Fray Bartolome reports that on February 8, Jose Francisco Arcos Martinez from El Limar, Tila, Chiapas, was detained and harassed by members of Paz y Justicia as he was on his way to make a complaint to the PGR's special unit investigating possible armed civilian groups. PRODH reports that on March 18, Zapatista sympathizer Pascual Martinez Gutierrez was attacked by members of Paz y Justicia. He reportedly was shot and later died from his wound. In August 2000, between 30 and 300 members of the "Peace and Justice" armed civilian group fired their weapons in the air, set off fragmentation grenades, and burned at least 6 houses to evict 90 EZLN sympathizers from Paraiso, Yajalon municipality, Chiapas. The eviction reportedly was the result of a 1997 land dispute. The 15 displaced families subsequently took refuge in the nearby village of Hidalgo Joshil, and at year's end the families had not returned to their homes. From January 1998 through August 1999, the army confiscated 431 weapons from civilians in the Chiapas zone of conflict. The Chiapas state attorney general's office claimed to have disbanded 39 gangs and confiscated 132 firearms within the same time period.

Armed civilian groups, allegedly controlled or sponsored by local political leaders loosely affiliated with the PRI, were alleged to have committed many human rights

violations in Chiapas, including the 1997 Acteal massacre (see Section 1.a.). NGO's claim to have identified as many as 15 such groups in the past and have maintained that a number of these remained active or are reactivating. The Fray Bartolome de las Casas Human Rights Center in Chiapas referred to six groups as active during the year. In April 2000, the PGR opened a new special unit to investigate possible armed civilian groups in Chiapas. On April 19, state authorities dropped all charges and released 11 alleged members of Peace and Justice, arrested in October 2000 on charges of illegal weapons possession, organized crime, and terrorism, due to a lack of evidence; however, human rights activists claim that dozens of eyewitnesses, as well as physical evidence, linked the individuals with more than 30 crimes in past years.

The CNDH investigations into the May 2000 killing of three indigenous persons and wounding of another by four masked men in Tzanembolom, Chenalho municipality, Chiapas were closed on August 2000, due to the absence of evidence that any state/public authorities participated in this incident.

From August to December, more than 1,300 previously displaced persons returned to their communities in Chiapas. The first return occurred on August 28, when 333 persons from 63 families of the approximately 3,000 displaced members of "the Bees," a pacifist organization that sympathizes with some of the goals of the EZLN, returned to their homes in Chenalho, Chiapas. Red Cross volunteers and other national and international civil organizations accompanied the group. An additional 189 persons from 35 families returned to their homes on September 30. The Bees had been displaced from Chenalho since 1997. In June 2000, the municipal authorities of Chenalho promised to facilitate the return to the area of the group, and the August return was the first since the group's flight. Human rights groups estimate that there are a total of 8,000 displaced persons from the municipality living in Polho, Acteal, X'oyep, and Tzajalchen.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, harassment of journalists by various sources, especially by narcotics trafficking organizations, continued during the year. The mass media are not subject to formal censorship by the Government; however, there were in the past reports of some self-censorship. In addition, violence and threats against journalists primarily by narcotraffickers and on occasion by authorities hindered press freedom. Nonetheless the freedom and independence of the media continued to expand. Many observers believe that drug trafficking organizations or corrupt security personnel in their pay carried out most of the attacks on the media.

The traditionally close relationship between the Government and the media that tilted coverage and editorial opinion in the Government's favor during 71 years of PRI rule has changed significantly. The Government no longer controls the import of newsprint but does retain control over broadcast licensing, which critics claim led some broadcast media to practice self-censorship. Accordingly the editorial line of some key news organizations remained biased in favor of the Government. The persistence of official influence was most apparent and most concentrated in television, although it declined during the year. Instead of paying a 12.5 percent tax on advertising revenues, television broadcasters provided in exchange free broadcast time to the Government, thus giving it convenient access to the medium. Official advertising in the media continues, but disguising it as news coverage is more common at the state than at the national level. In the past, there had been allegations of cash and noncash payments to journalists; however, there were no such allegations during the year.

On December 1, the President submitted to Congress a draft Federal Law that would allow the public to request and receive information from all state entities, as well as from public and private agencies that manage public funds.

The numerous attacks on journalists constituted the most serious problem for press freedom. The Committee for the Protection of Journalists and Media Communications reported that in 1999 there was a decline in the number of acts of intimidation, including physical attacks, threats, and detentions, against journalists; from 202 in 1998 to 135 in 1999. A report issued by 4 NGO's in 1999 recorded 240 attacks of various types against journalists during 1998, compared with 187 during 1997. These numbers included all aggressive acts against the media as reported in the media. According to the report, government institutions (including federal, state, or local police) or officials were responsible for 41 percent of the incidents. The Manuel Buendia Foundation, one of the NGO's, concluded that the vast majority of acts were intended to intimidate. During the first 7 months of 1999, the CNDH program on aggression against journalists investigated 22 complaints of attacks on

journalists; most were for assault or intimidation. One, from July in the state of Morelos, was for murder. The CNDH began an investigation of that case.

Juan Francisco Ealy Ortiz, the country's representative on the IAPA's Commission on Freedom of the Press and Information, reported that acts of intimidation against journalists by narcotraffickers have replaced official harassment by earlier administrations as the most serious threats that journalists face in the country. Francisco Barron, Director of Communication at the National Center of Social Communication (CENCOS), an NGO, added that the Fox Government was more willing to investigate corrupt government officials alleged to be working in collusion with narcotraffickers.

Outright attacks and intimidation of journalists are underreported, and there are no comprehensive nationwide studies of these incidents. In addition the Government has not investigated sufficiently the cases that are reported, such as those included in the "Damages Inventory," a summary of the first 6 months of the year from the Protection Network of Journalists and Media (PNJM). Through July at least two journalists died as a result of their work, and another was killed later in the year. The PNJM document also reported that from January 1 to May 31, there were 44 incidents of press intimidation and harassment. Abuses against the press included physical assaults, legal complaints against journalists, and threats. The PNJM indicated that the target of the attacks has shifted: Attacks against print journalists diminished and aggression toward electronic media journalists increased over this period.

The states with the highest number of attacks occurred in the Federal District 13, Chiapas 6, and Michoacan 3. Numbers from the CNDH are consistent with the PNJM reports: from January to July, it received 40 complaints of violation of the right of free press involving 54 journalists. Of those only 10 fulfilled all the requirements to initiate an investigation which includes verifying that authorities or public servants were involved in the facts.

On February 19, Jose Luis Ortega Mata, editor of the weekly *Semanario de Ojinaga* based in Ojinaga, Chihuahua, was shot twice in the head at close range with a .22 caliber firearm. The authorities dismissed robbery as a motive because the victim was found with his wallet and camera. Prior to his murder, Ortega Mata had received threats because of articles that he had been writing about local drug traffickers' links to local politicians. On April 29, police arrested Jesus Manuel Herrera and charged him with the murder. In July the Chihuahua State appeals court ruled that the prosecution did not have sufficient evidence to justify Herrera's detention and ordered him released. The crime remained unsolved, and was being investigated by the Chihuahua State Attorney General's office at year's end.

On March 24, Saul Martínez of the Matamoros newspaper *El Imparcial*, who had received death threats in the past, was found dead in his car with four shots to the head. He was investigating a local drug dealer and apparently was kidnaped on his way to the Matamoros airport.

Valentín Davila Martínez, a journalist with Radio Canon, was reported as "missing" and last seen on August 9 in Ciudad Juárez, Chihuahua state. According to press reports, his wife said that he had traveled to Nuevo Casas Grandes with Mario Flores Vale, a convict with a record of drug offenses. In September authorities found their empty vehicle. Flores later was found dead, in what appeared to be an execution-style murder. There was no information of Martínez's whereabouts at year's end.

Ealy Ortiz of *El Universal* stated that no progress had been made in some of the investigations of serious attacks against journalists during the past 10 years. In its mid-year report, the IAPA corroborated this assertion of impunity for past crimes against journalists. The report mentioned several examples of such cases.

Jose Ramirez Puente, the host of a popular radio news program in Ciudad Juárez, was found dead in April 2000, in his car with over 30 stab wounds. His case originally was assigned to the PGR Special Prosecutor for Homicides. However, during the year that office was disbanded, and the case was transferred to the new joint Office of Investigations of Homicides Related to Narcotrafficking, which is composed of both state and federal district attorneys.

The IAPA reported that the investigation into the 1998 killing of Luis Mario Garcia, a police reporter for the Mexico City daily *La Tarde*, had been closed; no arrests were ever made.

In January a judge acquitted six persons charged with killing popular television personality, Francisco "Paco" Stanley.

On August 3, a judge acquitted two persons accused in the 1998 murder of foreign journalist Philip True.

In July 1997, Victor Hernandez Martinez, a journalist who repeatedly accused the police of corruption, was beaten to death in front of the offices of the Federal Judiciary Police in Mexico City. No one has been arrested.

There are approximately 300 newspapers operating (including local). Of these, there are approximately 10 main national newspapers. None are operated by the Government; however, the Government does operate several radio stations, two national television channels, and some local stations. Public universities (e.g. UNAM, IPN, and state universities) run most of the public media.

Television news independence has been enhanced by greater political pluralism, generational change in media leadership, and growing competition for advertisers and viewers, which continued to separate government and media interests. Moreover, as much of the national media has developed higher journalistic standards and independence in recent years, government influence has declined. The media showed a high degree of editorial independence, particularly in the capital and other major urban centers. Direct criticism of the Government, especially in radio and the print media, was common.

There were reports that municipal officials in Chiapas suspended Protestant evangelical radio programs, including those of the Adventist Church, on technical and administrative grounds, despite the Federal Government's issuance of a permit (see Section 2.c.).

National electronic media covered candidates in the 2000 election far more equitably than in past elections; however, there continued to be large discrepancies in coverage in local and state level electronic media. In December 2000, the Electoral Tribunal of the Federal Judiciary (TEPJF) annulled the results of the Tabasco state election, citing inequitable local media coverage as one factor (see Section 3).

The CPJ believes that the country's criminal defamation law violates the basic freedom of expression and that no journalist should be jailed for his work. In a May 22 letter to the President, the CPJ protested the defamation charges filed against Carolina Pavon, a reporter from the newspaper *Reforma*, and Alejandro Junco de la Vega, its president and publisher. Former Mexico City mayor Rosario Robles filed the charges against Pavon and Junco de la Vega following an April 12 cover story alleging that almost 10 percent of her administration's budget was missing. On November 23, Robles was exonerated from mispending her budget when she was mayor. Journalists and the media have experienced other types of harassment this year, including alleged wiretapping (see Section 1.f.).

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of assembly, and the Government generally respects this right in practice. The only requirement for holding demonstrations is that groups that wish to meet in public areas must inform local police authorities in advance. Organized, peaceful demonstrations occur frequently throughout the country.

According to Federal District officials, in Mexico City there were 101 marches with 19,581 participants between December 2000 and September. For example, on Mother's Day (May 10), protesters drew attention to persons who disappeared after apprehension by security forces during the 1970's and 1980's (see Section 1.b.). In August thousands of farmers marched in Mexico City to protest a decline in farming income. In September union leaders in Mexico City organized a protest against planned tax increases. In addition the EZLN conducted a highly publicized, nationwide march that culminated in the main square in Mexico City, with approximately 80,000–100,000 supporters in attendance (see Section 5). On November 28, an estimated 1,500 residents of San Salvador Atenco and Texcoco marched on Mexico City to protest the selection of their community as the site for Mexico City's new international airport.

The Constitution provides for freedom of association and the Government generally respects this right in practice. Political parties, opposition, and independent associations functioned freely without government interference or restriction. The Federal Electoral Code recognizes national political parties as well as political associations. Political associations can participate in elections through an agreement with a political party but are not allowed to use their names or symbols during the election campaigns. Political parties do not have legal status until they receive their official designation from the Federal Electoral Institute (IFE). The IFE has recognized 8 political parties and 36 political groups. Parties must receive at least 2 percent of the vote in national elections to maintain their registration. Eleven additional requests for formal registration by political groups were pending before the IFE at year's end.

Citizens are free to associate and may form private or charitable associations. However, in 1998 the Mexico City legislature passed a law that gave the city government more influence over private charities. According to the Secretariat of Gov-

ernment's Directorate of Liaison with Social and Civil Organizations, there are 5,339 NGO's active in the country, which play an important and vocal role in the promotion of civil society.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and Congress may not enact laws that establish or prohibit any religion. The Government generally respects this right in practice; however, there are some restrictions at the local level. State and municipal governments generally protect this right; however, some local officials infringe on religious freedom, especially in the south. In 1998 the Government and representatives of many religious denominations signed a religious code of conduct that reaffirms freedom of religion. The law bars the clergy from holding public office, advocating partisan political views, supporting political candidates, or opposing the laws or institutions of the State.

Religious groups cannot operate legally without registering as religious associations with the Undersecretariat of Religious Affairs of the Federal Secretariat of Government. Although the Government does reject a few applications, usually due to incomplete documentation, the registration process is routine.

To visit the country for religious purposes, foreign religious workers must secure government permission. The Federal Government limits the number of visas that each religious group is allowed. However, the Government has granted more than 30,000 such visas since 1994. The authorities in the past had used immigration law to restrict the activities of religious workers, particularly in the state of Chiapas. According to a representative of the Catholic Diocese of San Cristobal de las Casas, Chiapas, the situation for foreign visitors improved significantly during the year. Unlike in previous years, foreign clergy and visitors to the area have been able to arrange their immigration status easily and received prompt attention from the relevant government authorities. For example, in April Father Loren Riebe, who was expelled from Chiapas in 1995 along with two other foreign priests, returned without incident to San Cristobal for a conference.

Any building for religious purposes constructed pursuant to a permit after 1992 is the property of the religious association that built it. All religious buildings erected before 1992 are "national patrimony" and owned by the State. The Catholic Church and other religions maintain their own schools, which receive no public funds. Although religious associations cannot own or administer broadcast radio or television stations, the Catholic Church owns and operates a national cable television channel. Government permission is required to transmit religious programming on broadcast radio or television, and permission generally is granted routinely; however, there were reports that municipal officials in Chiapas suspended Protestant evangelical radio programs, including those of the Adventist Church, on technical and administrative grounds, despite the Federal Government's issuance of a permit. Local officials reportedly claimed that the Adventist Church's permit lacks the proper seal.

Since assuming office in December 2000, the Secretary of Government has initiated a series of informal meetings with representatives from various religions to discuss issues of mutual concern.

There were incidents of violence between religious groups in Chiapas during the year (see Section 5). The situation in Chiapas is a result of a complex mix of economic, ethnic, political, and religious tensions. There is a history of religious intolerance in, and expulsions from, certain indigenous communities whose residents follow syncretistic (Catholic/Mayan) religious practices and view other religious practices as a threat to indigenous culture (see Section 5).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right of free movement, and the Government generally does not restrict the movement of its citizens into, out of, or within the country.

Corrupt police sometimes violated the rights of illegal immigrants. Illegal immigrants rarely file charges in cases of crimes committed against them, because the authorities generally deport immediately such persons who come to their attention; many pending cases brought by illegal immigrants are subject to dismissal because the complainant is no longer present.

In May 2000, the CNDH criticized the mistreatment of Central American migrants by the authorities and society. On August 24, the CNDH opened its first border office in Tapachula, Chiapas, to receive and attend to complaints of human rights violations from migrants, both documented and undocumented. The most common complaints by migrants included assault, rape, and extortion. According to the CNDH, the principal points of entry for migrants are Comalapa, Suchiate, and Tuxtla Chico.

In May 2000, press reports indicated that Central American migrants filed approximately 2,899 complaints of human rights violations in 1999. Studies conducted

by the College of Mexico indicate that human rights violations against Central American migrants were increasing. Reports of injury to and harassment of undocumented migrants continued around the country during the year.

The newspaper *La Jornada* reported that on August 31, municipal police agents beat a group of eight undocumented migrants near Cristobal Garcia, Sonora. The police reportedly fired two warning shots to detain the group and then held a pistol to one individual's head. The police allegedly assaulted the group during questioning to determine the identity of the trip's organizer.

An arrest warrant was issued for a state police agent in connection with the July 2000 beating of four Central American migrants hiding in a rail car in Ecatepec, Mexico state (see Section 1.c.).

There also were credible reports that police, immigration, and customs officials were involved in the trafficking of illegal migrants (see Section 6.f.).

The law provides for the protection of foreigners who might face political persecution if they were to return to their countries of origin. The law includes provisions for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The issue of the provision of first asylum did not arise during the year. The Government accepts the principle of first asylum and reviews each claim on a case-by-case basis with the assistance of the office of the U.N. High Commissioner for Refugees.

There were no reports of the forced return of persons to a country where they feared persecution. However, in October 2000, immigration authorities arrested Pedro Anibal Riera Escalante, a Cuban national and deported him to Cuba the following day. The Foreign Relations Secretariat subsequently noted that Riera, a former Cuban consul in Mexico City, had applied for asylum on September 8.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully through periodic elections. As a result of electoral reforms approved and implemented in recent years, the political process and especially the electoral process have become more transparent. While elections are open and generally fair, some abuses continued to occur. Prior to the July 2000 presidential election, the PRI had dominated politics, controlled the Federal Government, and won every presidential election since its founding in 1929. However, in July 2000, voters elected President Vicente Fox, a member of the National Action Party and presidential candidate of the Alliance for Change Coalition, with 43.3 percent of the vote. Observers, both international and domestic, judged the elections, which ended the PRI's 71-year hold on the presidency, to be generally free and fair. The observers described the election as a historic turning point and made recommendations for further electoral reform. During the year, the IFE held forums in collaboration with international election organizations to discuss campaign finance issues.

The legislature amended the Constitution in 2000 to allow eligible citizens who are abroad to vote in presidential elections; however, the Senate failed to act on the necessary implementing legislation that would have made overseas voting possible in the 2000 election, due to differences over the costs and requirements for voting. The national debate regarding overseas voting for the 2006 presidential elections continued during the year.

Presidents are elected every 6 years and cannot be reelected. Early in his administration, former President Ernesto Zedillo (1994–2000) supported legislation making the IFE an independent agency and later declined to handpick his party's candidate for the 2000 presidential election; instead, the PRI held a multicandidate primary in 1999.

The IFE, operating with full autonomy, arranged and supervised the July 2000 federal elections. The IFE had implemented extensive constitutional and legislative reforms in 1996 to help prevent electoral fraud and to create more uniform conditions for political party participation by regulating campaign finance, advertising, and other areas. It standardized the voter registration list and recruited and trained thousands of civil society volunteers to serve as independent electoral workers at the voting booths. The IFE also provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts.

In the Chamber of Deputies, the PRI holds 211 seats; the PAN 206; the PRD 50; the Green Ecologist Party (PVEM) 17; the Labor Party (PT) 7; Democracy Convergence (CD) 4; the Nationalist Society Party (PSN) 3; and the Social Alliance Party (PAS) 2. The PRI holds 60 seats in the Senate; the PAN 46; the PRD 16; the PVEM 5; and the CD 1. Legislators can and do on occasion change their party affiliation.

On the state level, the PRI holds the governorship in 17 states, the PAN 6, the PRD 1, PRD-PT coalitions 3, PAN-PVEM coalition 1, and PAN-PRD-led coalitions 3. On the municipal level, multi-party pluralism is well established. The PRD governs the Federal District, and the PAN governs 13 of the 20 largest cities.

Despite the IFE's efforts, there still were controversies at the state level over elections. In July the PRI appealed the results of the July 1 Ciudad Juarez mayoral elections, called in favor of the PAN candidate, on the basis of alleged irregularities at polling places and the improper conduct by the city's PAN administration in favor of the PAN candidate. In August the State Electoral Institute ruled in favor of the PRI. The PAN appealed the state level decision to the TEPJF, the ultimate court of appeal on election matters.

In December 2000, the TEPJF annulled the results of the Tabasco state disputed October 2000 gubernatorial election (in which the PRI bested the PRD candidate by 1 percent) and directed the Tabasco state legislature to name an interim governor and prepare for a new election. In its decision, the TEPJF cited inequitable local media coverage, diversion of funds for the election for the PRI candidate, and the blocking or miscounting of opposition votes. This was the first time that the TEPJF invalidated an election. In the new gubernatorial elections held on August 5, the PRI candidate won by a margin of 4.5 percent.

In 2000 Yucatan state opposition parties accused former PRI Governor Victor Cervera Pacheco and the PRI-dominated state legislature of stacking the State Electoral Council to favor the PRI's candidates in the 2001 elections. In December 2000, the TEPJF rejected the Council nominated by the state legislature and named a new Council. PRI state legislators questioned the legitimacy of this TEPJF-appointed Council and vowed to fight the "imposition" in the courts. After a 4-month standoff, Cervera was forced to back down from his demands to reappoint the Council and in a May 27 election, PAN candidate Patricio Patron defeated PRI candidate Orlando Paredes Lara to win the governorship of Yucatan by a 5 percent margin.

There are no legal barriers to participation in politics by women; however, the percentage of women in government and politics does not correspond to their percentage of the population. Nonetheless, individual female politicians play key roles in national politics. Women hold approximately 14 percent of the seats in the Congress. PRI deputy Beatriz Paredes serves as president pro tempore of the Chamber of Deputies, and Olga M. Sanchez Cordero Davila serves as a Supreme Court justice. No women serve as governors, although there have been female governors in the past. Rosario Robles served as head of government of the Federal District from September 1999 to December 2000. President Fox appointed 9 women to his 51-member, expanded Cabinet and Sub-Cabinet. A total of 9 of the 15 members of Mexico City Mayor Andres Manuel Lopez Obrador's cabinet are women, and 13 of the city's 23 key officials are women.

Many state Electoral Codes provide that no more than 70 to 80 percent of candidates can be of the same gender. All political parties are attempting to increase the number of women who run for elected office through formal and informal means. Some utilized quotas requiring that a certain percentage of candidates on a party list are female. However, in practice, women more often were put forward as substitute candidates who have little chance of serving unless the titular candidate leaves office. The PRD's membership is 48 percent female; its leadership is 22 percent female, 26 percent of its representatives and 12 percent of its senators are female, and it has a female party president. The PAN has utilized more informal methods to increase female registration. An estimated 24 percent of its leadership is female, and 12 percent of representatives and 13 percent of its senators are female. PRI party rules mandate that 30 percent of its federal candidates be women. An estimated 12 percent of the party leadership, including its president, 13 percent of its representatives, and close to 17 percent of its senators are female.

There are no legal barriers to participation in politics by members of minorities or persons of indigenous descent; however, the percentage of members of these groups in government and politics does not correspond to their percentage of the population.

Constitutional changes in 1996 expanded the rights of indigenous people to elect representatives to local office according to "usages and customs," rather than federal and state electoral law. Only the states of Oaxaca and Quintana Roo have enacted implementing legislation to effect such local elections. These traditional customs vary from village to village. In some villages, women do not have the right to vote or to hold office. In others, they can vote but not hold office.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operate largely without government restriction, investigating allegations of human rights abuses and publishing their findings on human rights cases. According to the Secretariat of Government's Directorate of Liaison with Social and Civil Organizations, there are 979 NGO's in the country involved in the field of human rights. Government officials generally have become more cooperative and responsive to NGO views; however, reports of harassment and attacks against human rights workers continued, and one human rights lawyer was killed in October. In December 2000, President Fox announced that the only requirement for those interested in observing human rights conditions is observance of the country's law. This decision overturned the 1998 requirement by the National Migration Institute (INM) that persons who wished to enter the country to monitor the human rights situation must go through a rigorous application process. The INM had required applicants to apply 30 days in advance, and had placed a 10-day limit on visits, set a limit of 10 visitors per NGO, and required that visitors submit a detailed itinerary and agency. Even before the 1998 requirements were put in place, and especially since the 1997 Acteal massacre, the Government had enforced vigorously the constitutional prohibition on foreigners engaging in political activities to hinder the work of foreign human rights monitors, and it restricted the activities of many human rights observers and religious workers in the state of Chiapas; however, there were no reports of such problems during the year. In August Global Exchange, an NGO that has been one of the strongest critics of the Government's immigration restrictions, credited the President with granting greater freedom to foreign observers and Zapatista sympathizers working in indigenous communities, who frequently were deported in the past. Some human rights groups still complain of lengthy waiting periods to obtain a visa, or 1-year residency permit. In July 2000, Deputy Secretary of Government Jose Angel Pescador Osuna annulled the 2-year expulsion of Tom Hansen, director of Mexico Solidarity Network. In June 2000, Hansen was granted a 15-day election observer visa.

International human rights NGO's expressed support for the Administration's commitment to human rights; however, during the year, they began to express impatience with the slow pace of implementation. In December both Amnesty International and Human Rights Watch issued reports critical of the country's progress during the year. On December 10, Amnesty International published a report entitled Mexico: Daring to Raise their Voices. The report maintained that a pattern of harassment of human rights workers had continued under the Fox Administration. The harassment took the form of spurious criminal charges, public smear campaigns, and surveillance of human rights defenders. The report claimed that the killing of Digna Ochoa heightened awareness of such reaction and asserted that previous threats and attacks against her had not been investigated properly. Amnesty International acknowledged that the President had asserted his commitment to human rights; however, it faulted him for failing to institute measures that would halt abuses. Mario Alvarez Ledezma, the director of human rights for the Attorney General's office, replied that authorities had investigated nearly twice as many human rights violation complaints during the year compared with 2000.

Human Rights Watch declared that the country had to stop permitting the military to investigate human rights abuses allegedly by its members and force it to turn cases over to civilian courts. At a news conference, Miguel Vivanco, the executive director of the Americas division of Human Rights Watch, noted the President's creation of a special prosecutor to investigate reports that hundreds of leftists vanished while in government custody (see Section 1.b.). The report noted that the President had opened the country to scrutiny by international human rights monitors; however, the report warned that the President's war against drug trafficking could lead to aggressive policing practices by the armed forces that could fail to take sufficient account of the need for the protection of human rights.

In early December the President said that too much had been expected of him. He described his first year in office as a time of plurality and tolerance with complete freedom of expression. He declared that the era of the absolutist presidency had ended, and that he would continue to strengthen the judicial and the legislative branches.

On October 19, prominent human rights lawyer Digna Ochoa y Placido was killed in her Mexico City office by unknown assailants. A coworker discovered her body along with a note threatening activists at the PRODH. Ochoa had experienced threats, harassment, and attacks related to her work since 1995. The Mexico City Attorney General's Office led the investigation into Ochoa's homicide. On November 6, Mexico City Attorney General Bernardo Batiz stated that his office was pursuing various lines of investigation, but that investigators were taking an especially close

look at Ochoa's last trip to Guerrero, which took place October 1–3. Batiz told the press that Ochoa had had confrontations in the past with local political leaders, military personnel, and illegal loggers in Guerrero. The Government provided investigators with files about Ochoa's work that had been kept by CISEN. In addition, on President Fox's recommendation, the Secretariat of Government (SEGOB) established a human rights roundtable to follow this case and discuss the broader human rights agenda, and convened its first meeting on October 30. The investigation continued at year's end, and there were no firm leads in the case.

In January Hilda Navarrete Gorjan, director of the human rights NGO the Voice of Those Without a Voice in Coyuca de Benitez, Guerrero, lodged a formal complaint against the army for harassment. However, according to Navarrete, since her January appearance in court to criticize the military for parking outside her office with weapons pointed in the direction of her building, those actions have ceased.

There were no developments in the investigation of death threats against Arturo Solis, president of the Center of Border Studies and the Promotion of Human Rights. He received these threats after he publicly accused federal immigration agents in Tamaulipas of involvement in illegal immigrant trafficking in June 2000 (see Section 2.d.).

On October 8, there was an intruder in the home of Aline Castellanos, Coordinator of the Mexican League for the Defense of Human Rights (LIMEDDH) in Oaxaca. She believes it was in retaliation to a case she was working on, in which there was arrest made on October 3. Nothing was taken from her home and the intruder apparently fled when an associate of Castellanos unexpectedly arrived at the scene.

There were no developments in investigations into robberies of the home and office of Angelica Ayala Ortiz, vice president of LIMEDDH. In August 2000, Ayala's computer, recording equipment, and television and videocassette recorder were stolen from her home in Oaxaca. Asserting that the robbery was an act of intimidation, Ayala, who works on indigenous rights issues, lodged a complaint with the state attorney general's office. In 1999 the LIMEDDH office in Oaxaca was robbed. Despite a February 2000 arrest warrant in that case, no one has been detained. Investigations into both cases were ongoing at year's end.

The PRODH has criticized the Government's actions to provide safety to human rights workers as inadequate. The PRODH advocates the adoption of measures to promote awareness of the importance of human rights work and to investigate cases of threats, intimidation, and attacks against human rights workers. In November and December, SEGOB developed a plan in collaboration with NGO's to provide enhanced protective measures for human rights activists, and to determine the circumstances and conditions under which this assistance may be provided.

On June 26, an appeals court instructed a district judge to consider a claim submitted by the defense team of General Jose Francisco Gallardo Rodriguez (see Section 1.e.). The amparo, submitted in February, argued that the Government should comply with the IACHR recommendation in the case, which calls for Gallardo's release. The judge called for the more than 20 government agencies to submit written testimony by October 18. On two occasions, the review of this testimony was postponed as SEDENA was unable to provide the requested information within the allotted time. At year's end, the deadline for submission of testimony had been extended until January 23, 2002. On December 18, the IACHR requested that the Inter-American Human Rights Court seek provisional measures from the Government in favor of General Gallardo. On December 20, the Court responded by ordering that the Government provide measures to guarantee Gallardo's safety and physical integrity. On December 22, the Government complied with the Court's order by ordering Gallardo's transfer from his Neza-Bordo prison to an improved facility in Chalco, Mexico state. Gallardo was arrested in 1993 on a range of charges, including embezzlement and dishonoring the military, and was moved in 1999 from a military to a civilian jail. He maintained that military authorities were persecuting him because he wrote an academic dissertation calling for the establishment of a human rights ombudsman's office in the military. Since 1996 the IACHR and Amnesty International have called for his release. The Secretariat of Foreign Relations' Undersecretariat for Human Rights, which has stated its desire and commitment to comply with IACHR recommendations, is conducting a comprehensive review of possible legal remedies in the case for the consideration of General Gallardo's defense team.

In May U.N. Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Cumaraswamy, visited the country and expressed serious concerns about the criminal justice system (see Section 1.e.).

At the invitation of the Government, Claudio Grossman led an IACHR delegation to the country from July 2 to July 5. Their program concentrated on follow-up meas-

ures for compliance with IACHR reports on individual cases of violations of human rights, including: The arbitrary expulsion of Loren Reibe and two additional foreign priests from Chiapas in 1995 (see Section 2.c.); the extrajudicial execution of three persons in Ejido Morelia, Chiapas, in 1994; the case of General Francisco Gallardo (see Section 1.d.); the arbitrary detention and rape of three indigenous women by military personnel in Chiapas in 1995; the Aguas Blancas massacre (see Section 1.a.); the alleged cover-up by Federal District police and judicial authorities of a murder case; the torture of one man in the Federal District; and the extrajudicial execution of two men in Veracruz in 1994.

The meetings were conducted by the President of the IACHR, with the participation of high level officials of the Secretariat of Foreign Relations and several states, including the Attorney General of the Federal District and the Attorney General of Chiapas, as well as representatives of the governments of Morelos, Veracruz, and Oaxaca. On behalf of the victims, several direct relatives also participated, along with NGO's, including the National Network of Civil Organizations of Human Rights, the Mexican Commission for the Defense and Promotion of Human Rights, PRODH, and ACAT.

The meetings led to the creation of several working groups consisting of government authorities and victims rights representatives, which are expected to identify concrete measures for compliance with the IACHR recommendations. The working groups also are expected to develop proposals for reparations to victims and their families and to harmonize domestic legislation with international human rights obligations.

Following a December 2000 cooperation agreement between the President and UNCHR Mary Robinson, the office of the high commissioner initiated a 5-month program that included a technical assessment of the CNDH, training seminars on forensic investigations and the documentation of torture, and a conference on strengthening the capacity of indigenous NGO's. The first phase of the program was completed in July; a second phase of the technical cooperation programs is under active consideration.

On September 25, the President announced the creation of an Undersecretariat for Human Rights and Democracy within the Secretariat of Foreign Relations and appointed Marilaire Acosta as the new Undersecretary. Undersecretary Acosta increased cooperation with the U.N. and the IACHR and worked to ensure that the Government complied with its international human rights commitments. Domestically, her office increased public participation in the Government's development of human rights initiatives, strengthened government agencies' commitment to improve human rights practices, and facilitated cooperation with international human rights organizations in the country.

In December 2000 President Fox established the Citizen's Commission Against Discrimination.

The CNDH has improved its credibility steadily since its establishment by the Government in 1990. The Senate, instead of the President, now appoints the commission's president, although some NGO's feared that this would make the CNDH more susceptible to political pressure. In 1999 the Senate named legal scholar Jose Luis Soberanes to a 5-year term as CNDH president, replacing the sitting president prior to the expiration of her term. Although most NGO's have a favorable opinion of the CNDH, many are critical of its method of presenting information, especially the reporting of compliance with recommendations, which is mandated by statute. However, in a public opinion survey in May, a majority of respondents indicated that they felt the CNDH was an institution that offered services of protection, defense, and consultation to the population.

SEDENA, in coordination with the CNDH and state human rights commissions, provides its officers with human rights training.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides that men and women are equal before the law, and that education should avoid "privileges of race, religion, groups, sexes, or individual;" however, these provisions are not enforced effectively, although the Government continues to make progress in efforts to do so. On August 14, a third paragraph was added to Article 1 of the Constitution, which establishes for the first time the constitutional prohibition against any form of discrimination, including discrimination against persons on the basis of: ethnic or national origin, gender, age, different abilities, social condition, health conditions, religion, opinions, preferences, civil status, or any other basis that goes against human dignity and attempts to annul the rights and liberties of persons.

Amnesty International has reported that homosexual men and women frequently are victims of abuse and violence. In its 1999 annual report, the NGO Citizen's Commission Against Homophobic Crimes reported that on average 3 persons per month are killed because of their sexual orientation, and that there were 217 such killings between 1995 and 2000. Of these, 103 killings occurred in Mexico City, with another 29 in Mexico state and Veracruz. The consensus among gay rights groups is that the police fail to investigate these crimes seriously.

Gay rights groups claim that the police in Monterrey demonstrated a pattern of abuse of gay men, lesbians and transvestites. For example, on April 24, police arrested an undetermined number of transvestites in Monterrey.

Individuals suffering from HIV/AIDS are victims of abuse and mistreatment. For example, the interim president of the Yucatan State Human Rights Commission, Omar Ancona Capetillo, declared that those suffering from HIV/AIDS should be isolated or quarantined, and that if they would attempt to escape from designated facilities, security forces should shoot to kill. Human rights groups immediately criticized the statement and lodged a formal complaint with the CNDH. In Jalisco, the state with the highest number of HIV/AIDS cases (estimated at 6,136), activists have created a commission to monitor discriminatory attitudes and promote additional training of medical personnel.

Women.—The most pervasive violations of women's rights involve domestic and sexual violence, which are both widespread and vastly underreported. A 1997 law criminalized intrafamily violence, established protective measures for victims, and provided public education on the domestic violence problem. The law provides for fines equal to 30 to 180 days' worth of pay and the detention of violators for up to 36 hours. On July 21, the press reported that in 6 months, the Federal District's Attorney General's Center for Attention to Intrafamily Violence had given 13,822 victims medical, psychological, and legal assistance; however, only 16 of the cases went on to be prosecuted. The Center for Attention to Intrafamily Violence reported in 2000 that it received between 50 to 60 complaints nationwide every day. According to a 1999 survey by the National Institute of Statistics, Geography, and Computation, some form of domestic abuse occurs in one of every three homes. The victim seeks help in only one of every six homes suffering from domestic abuse. Women are reluctant to report abuse or file charges, and the police are reluctant to intervene in what society considers a private matter. Many police also are inexperienced in these areas and unfamiliar with appropriate investigative techniques, although some have received training on these issues.

According to the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), over 1 million women each year seek emergency medical treatment for injuries caused by domestic violence. Groups such as the NGO Center for Research and Care of Women are attempting to counter the widespread view of domestic violence as private, normal behavior and to deter future violence. In June 2000, then-Mexico City Mayor Rosario Robles publicized a handbook written by a coalition of feminist NGO's to reduce domestic violence and to help victims of gender discrimination. Within the CNDH's First Inspector General's office, the General Coordinating Office that devotes all of its time with issues relating to women, children, and the family.

A 1997 law also expanded the definition of rape to include spousal rape, applying to both married or common-law couples. Under certain circumstances limited to the statutory rape of a minor between the ages of 12 and 18, the Criminal Code allows a judge to dismiss charges if the persons involved voluntarily marry. In practice this provision is invoked rarely.

Human rights organizations and the U.N. Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Cumaraswamy, strongly criticized the Government's limited progress in solving the cases of the approximately 200 women who have been raped, murdered, and mutilated in the Ciudad Juarez area since 1993 (see Section 1.c.). The CNDH determined in 1998 that the Chihuahua state attorney general's office's inadequate response had violated the human rights of the victims and their families. The CNDH therefore recommended that the state attorney general and the mayor of Ciudad Juarez be investigated for negligence; however, no action was taken. Also in 1998, the authorities appointed a special prosecutor for crimes against women and hired foreign experts in serial killings to advise investigators.

In August the court system in Ciudad Juarez had a total of 14 cases of homicides against women in the trial process, 33 awaiting sentencing, 16 with warrants for arrests, and 65 in the investigation phase. A total of 64 cases were closed after sentences were passed. During the year in Ciudad Juarez, there were 27 murders of women; 19 of those cases were resolved, and 8 were under investigation at year's

end. In December the President ordered that federal crime specialists help in the investigation.

Since December 2000, at least seven young women between 17 and 20 years of age in Chihuahua City have disappeared. Both the age group and manner of disappearance of the Chihuahua women coincided with those of many of the women who have been killed or have disappeared from Ciudad Juarez in the past several years. In January the Chihuahua State legislature proposed stiffer penalties for rape, sexual abuse, and harassment, but in August revisions of the Chihuahua State Penal Code that cut the minimum sentence from 4 years to 1 year if the offender could prove that the victim had provoked the attack went into effect. Women's and human rights groups protested the revisions, and the federal legislature promised to take action if the state congress did not amend the changes. On September 18, Chihuahua state legislators repealed the legislation.

In August police in Chiapas arrested Edilberto Montero Padilla in connection with 24 cases of sexual assault on tourists and local women. Montero escaped from detention 10 years ago while on trial for 180 cases of rape.

Trafficking in women for the purpose of sexual exploitation is a problem (see Section 6.f.).

The Federal Criminal Code includes penalties for sexual harassment, but victims must press charges. Many female victims were reluctant to come forward, and cases were difficult to prove. Sexual harassment in the workplace is widespread. In May the Federal District Human Rights Commission estimated that at least 80 percent of the women who work in Mexico City have experienced sexual harassment.

Although the Constitution provides for equality between the sexes, neither the authorities nor society in general respect this in practice. The legal treatment of women's rights is uneven. Women have the right to own property in their own names and to file for separation and divorce. However, in some states a woman may not bring suit to establish paternity and thereby obtain child support, unless the child was a product of rape or cohabitation, the child resides with the father, or there is written proof of paternity.

The Constitution and labor laws provide that women shall have the same rights and obligations as men, and that "equal pay shall be given for equal work performed in equal jobs, hours of work, and conditions of efficiency." However, women in the work force generally are paid less than their male counterparts and are concentrated in lower-paying occupations. In July the President estimated that women earn 35 percent less than men do. According to a 1998 academic study, a woman on average needs to have 4 more years of education to earn the same salary as a man in a comparable position.

Labor law provides extensive maternity protection, including 6 weeks' leave before and after childbirth and time off for breast feeding in adequate and hygienic surroundings provided by the employer. Employers are required to provide a pregnant woman with full pay, are prohibited from dismissing her, and must remove her from heavy or dangerous work or exposure to toxic substances. To avoid these expensive requirements, some employers, including some in the maquila industry, reportedly deliberately violate these provisions by requiring pregnancy tests in preemployment physicals, by regular examinations and inquiries into women's reproductive status (including additional pregnancy tests), by exposing pregnant women to difficult or hazardous conditions to make them quit, or by dismissing them. In its 2000 and 2001 annual reports, Human Rights Watch indicated that the Government not only was aware of such practices and failed to prevent them or to punish the perpetrators, but also made public excuses for companies that violated the law. In July the President publicly criticized the practice of requiring pregnancy tests for women applying for jobs, acknowledged that the Federal Labor Law has been violated in this respect, and pledged that federal hiring practices would respect women's rights.

The Secretariat of Labor makes safety and hygiene inspections in private factories and public institutions to protect the labor rights of workers (see Section 6.e.).

There were reports that public health institutions performed forced sterilizations in marginalized indigenous areas (see Sections 1.c., 1.f., and 5).

On January 11, a multiparty initiative resulted in legislation creating the National Women's Institute (NWI), which convened for the first time on March 8. This new agency is expected to coordinate tasks previously carried out by the National Women's Program (PRONAM), such as making recommendations to the Government regarding women's issues, and working with government agencies, international organizations, and NGO's to support women's causes. The NWI and the National Statistics Institute traced gender-specific statistics to ascertain more accurately the status of women. The International Labor Organization (ILO), the Secretariats of Labor and Foreign Relations, and the National Women's Institute have all promoted the equal status of women in the workplace. On October 12, NWI launched its Pro-

Equality program, designed to institutionalize a gender perspective within the Federal Government administration. In addition, there are several local groups that actively support women's rights. The Friends House (Casa Amiga) in Ciudad Juarez provides shelter for women and children in extreme need, advocates for the legal rights of women and children in the state of Chihuahua, and works closely with the sexual trauma assault resource crisis center of El Paso, Texas. It also provides training to police and administers outreach programs. The Fundemos Foundation in Guadalajara promotes legal reforms to protect victims of domestic violence and participates in the state coordinating body for women's organizations.

Children.—Children under the age of 15 make up 34 percent of the population, and the median age of the population is 21. The Government maintains several programs to promote child welfare that support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social workers; however, problems in children's health and education remain. The CNDH received complaints about the services provided by the Secretary of Health, the Secretary of Education (SEP), and the Institute of Social Security. Nine years of education are compulsory, and parents are legally liable for their children's attendance; however, SEP and the Sierra Neighborhood Foundation have maintained that only approximately 30 percent of youths between 15 and 20 years of age attend school. According to a 1998 academic study, in most areas of the country, girls and boys attend school at similar rates. In marginalized rural areas, national statistical agencies report that 60 percent of girls attend primary school compared with 70 percent of boys. Scholarships offered to families of the abject poor under the Government's "Progresa" antipoverty program kept an additional 100,000 children in school in 1999, and according to Progresa, that number increased by 18 percent in 2000. Progresa incorporated 763,000 new families into the program during the year.

The National Public Health Institute's 2000 National Nutrition Survey reported that 3 million children under the age of 5 suffered some form of malnutrition, and a 1999 national nutrition survey stated that the same number suffer anemia, while another 2 million children chronically were malnourished. The mortality rate for children under 5 years of age was 33 per 1,000 live births, according to UNICEF figures.

The National Institute for the Development of the Family (DIF) received an average of approximately 35,000 complaints per year of physical and mental abuse against children, the majority in the Federal District, Mexico State, and Nuevo Leon. On April 16, the Federal Chamber of Deputies Committee for Vulnerable Groups estimated that some 300 children die every year due to domestic violence.

Child prostitution and pornography are felonies under the law; however, sexual exploitation is a problem. Under a January 2000 law, anyone convicted of corrupting a minor under 16 years of age by introducing the minor to pornography, prostitution, or any sexual exploitation can be sentenced to 5 to 10 years' imprisonment. If parents or guardians are convicted of a crime, they automatically lose custody of their children. If convicted, accomplices to sexual abuse or exploitation may be imprisoned for 6 to 10 years. When physical or psychological violence is used to abuse sexually or profit from children's exploitation, the minimum and maximum penalties for these crimes are increased by up to half. The DIF estimates that 16,000 children below the age of 17 are victims of some form of sexual exploitation. In April 2000, the Mexico City attorney general's office and the Mexico City Human Rights Commission reported that nearly 12,000 children in Mexico City were exploited sexually, including through prostitution.

Trafficking in children for the purpose of sexual exploitation was a problem (see Section 6.f.). In November 2000, the PGR established the Special Prosecutor's Office for Attention to Crimes of Trafficking in Children.

Child labor is a problem, particularly among migrant farming families (see Section 6.d.). The Government has attempted to make schooling easier for the children of such families by making their educational credentials transferable.

In January 2000, the Congress passed a constitutional amendment to protect the rights of children and teenagers and ensure respect for their dignity. The amendment also increased penalties for the sexual abuse or exploitation of children. In May 2000, the Congress passed the Protection of the Rights of Children and Adolescents Law. The law provides for the right to life, non-discrimination, healthy living conditions, protection against threats to liberty and physical abuse, a healthy family life, health services, equal treatment for persons with disabilities, education, pursuit of happiness, and freedom of thought and expression. Penalties under the law include fines of 500 to 1,000 times Mexico City's minimum wage and possible administrative jail time.

Press reports cite a 1998–99 DIF study that estimated that some 130,000 minors in 101 cities were living in the streets. The NGO Mexican Association of Childhood

and Youth reported that there is a large population, estimated at 42,000, of vulnerable street children in Mexico City. Street children often become involved with alcohol, drugs, prostitution, petty thievery, and increasingly, violent crimes. Corrupt police officials sometimes exploit these children by pressuring them to commit petty crimes and extorting money from them. In March the DIF began a program aimed at street children, focusing initially on 3,000 children in Mexico, Puebla, Guadalajara, Monterrey, Tijuana, and Juarez.

The CNDH attempted to protect children by educating them on their rights and reviewing legislation to ensure compliance with relevant international conventions. In August 2000, the SEP announced the publication of four new books geared to teach children about discrimination, violence in the home, and toleration of differing beliefs.

The Government and various NGO's have programs directed at children that address human rights issues. Generally the purpose of these programs is not only to protect the rights of children but also to instill a generational respect for human rights through educational programs. An example of this educational approach is the Tree House (La Casa del Arbol), an interactive learning project sponsored by the Human Rights Commission of Mexico City.

Persons with Disabilities.—Estimates of the number of persons with disabilities range from 2 to 10 million. In the 2000 census, 1.8 million persons identified themselves as having a disability, although 2.2 million persons chose not to specify whether or not they had a disability. In Mexico City alone, 124 NGO's address problems affecting persons with physical disabilities.

On September 18, the President unveiled a federal program, the National Public Access Program, designed to provide equal access and rights to persons with disabilities. He also urged state and local governments to follow his lead in developing such measures. The President ordered Cabinet members to evaluate and improve accessibility for more than 4,000 federal buildings, including offices, hospitals, airports, and bus stations.

A total of 27 of the 31 states have laws protecting persons with disabilities. Local law requires access for persons with disabilities to public facilities in Mexico City, but not elsewhere in the country. However, in practice most public buildings and facilities in Mexico City do not comply with the law. The Federal District also mandated access for children with physical disabilities to all public and private schools. The Mexico City Secretary of Education, Health, and Social Development stated previously that 78 percent of these children received some schooling. In August 2000, the President's Office announced that 90,000 children with disabilities were integrated into a regular education system between 1994 and 2000.

In December 2000, the President established the Citizen's Commission Against Discrimination to be headed by former Social Democracy Party presidential candidate Rincon Gallardo. The Commission's objectives include ensuring equal opportunities and access for persons with disabilities and codifying these rights in a legal framework. The commission does not address only issues for persons with disabilities. During the year, the Commission held seven Regional Forums with experts and local NGO's to raise awareness and evaluate the scope of discrimination in Mexico. Topics included discrimination against persons with disabilities in Mexico City, but also: discrimination against women in Ciudad Juarez; discrimination against children and elderly in Monterrey; discrimination regarding sexual preference in Guadalajara; religious discrimination in Puebla; discrimination against migrants in Zacatecas; and ethnic/racial discrimination in Veracruz. The Commission also submitted a draft law to the executive on the Prevention and Elimination of Discrimination, and prepared an executive report on discrimination in Mexico.

Indigenous People.—The indigenous population has been long subject to discrimination, repression, and marginalization. The government's Office of Development of Indigenous People, created in December 2000, provides three sources on its website for enumerating the indigenous population, including the 2000 census figures and 1995 estimates from the INI. The 2000 census lists the total indigenous population as 8.65 million: 6.8 million native indigenous dialect speakers over 5 years of age, 1.3 million children under 5 who live in households of native indigenous dialect speakers, and 1.1 million individuals who identified themselves as indigenous, but do not speak an indigenous dialect. In 1995 INI estimated the indigenous population to be just over 10 million persons. Indigenous people are located principally in the central and southern regions and represent a majority in the states of Oaxaca (53 percent) and Yucatan (52 percent). However, these groups have remained largely outside the political and economic mainstream, as a result of longstanding patterns of economic and social development. In many cases their ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources is negligible.

The 1994 Chiapas uprising focused unprecedented attention on the demands of that state's indigenous population for increased economic and social rights. Among its basic demands, the EZLN called on the Government to enact measures to protect indigenous cultures, provide more opportunity for employment, and invest in schools, clinics, and infrastructure projects. In the 1996 San Andres accords, the Administration of then-President Zedillo agreed with the EZLN on the need to expand indigenous rights.

The federal and state government worked to create a positive atmosphere for negotiation in Chiapas through troop withdrawals and the release of Zapatista prisoners in late 2000 and early in the year (see Section 1.g.). The Government maintained a military presence in parts of Chiapas, where it is often the only entity capable of maintaining peace because of civilian law enforcement's lack of presence. However, some NGO's have called the military's presence threatening and intimidating to the indigenous population (see Section 1.g.).

In December 2000, fulfilling a high-profile campaign pledge, President Fox submitted to Congress the Indigenous Rights and Culture bill, a package of constitutional reforms that codified the San Andres Accords, also known as the COCOPA bill (see Section 1.g.).

On March 11, the EZLN's Subcomandante Marcos and 23 fellow leaders concluded a 2-week trip through 12 states designed to promote the bill, which was pending before Congress. Their trip, which included a 2-day congress of indigenous people culminated in a meeting in the main square of Mexico City with some 100,000 supporters in attendance. The Zapatistas marched to the capital under the protection of government forces. On March 28, a 23-member delegation of the EZLN addressed a joint meeting of the Indigenous Affairs and Constitutional Points Committees, held in the main Chamber of Congress. Among a number of good faith initiatives announced by the EZLN at the session was an invitation to Chiapas Commissioner Luis Alvarez to travel with the EZLN government liaison, Fernando Yanez, to confirm the army's withdrawal from seven bases in Chiapas; Luis Alvarez accepted the invitation and visited the bases during the year (see Section 1.g.).

On April 25, the Senate unanimously passed an amended version of the Indigenous Rights and Culture bill. On April 28, the Lower House approved the revised version of the bill by a vote of 386 to 60. The constitutional reforms were then approved by the State legislatures in 17 of the country's 31 states, thus meeting the requirement that constitutional reforms be approved by at least half of the states. The bill addresses government recognition of indigenous people, their right to internal self-government, the legal standing of traditional forms of justice, indigenous input into national, state and municipal development plans, and control over natural resources.

The EZLN opposed the revised bill's subjection of indigenous rights and autonomy to existing federal, state, and municipal laws and jurisdictions, provisions that were not contained in the original COCOPA bill. The revised bill also dropped the original bill's reference to indigenous communities as "legal public entities," diluted the COCOPA bill's recognition of indigenous rights in judicial proceedings, and reduced the extent of indigenous control over natural resources. On April 30, Chiapas governor Pablo Salazar also rejected the bill. In August the governor of Oaxaca, Jose Murat, said that the law institutionalizes racism and discrimination. On August 15, the bill became law. Indigenous rights groups launched numerous lawsuits and legal challenges to the reform's constitutionality, including 247 challenges filed in a single day by leaders of an equal number of municipalities in Oaxaca.

Opponents claimed that the process by which the reform was amended contravened international norms and conventions—specifically ILO Convention 169 on Indigenous and Tribal Peoples, which requires public participation in the development of legislation that affects the lives of indigenous people. The Government has ratified this convention.

On April 25, in response to a proposal made by the Governments of Mexico and Guatemala, the U.N. Human Rights Commission voted to establish the office of Special Rapporteur for the Protection of Indigenous Peoples and in July appointed Rodolfo Stavenhagen, a professor at the Colegio de Mexico's Center for Sociological Studies and former advisor to the EZLN during its negotiations with the Government. In September Stavenhagen called for the resumption of dialog between the Government and the EZLN, as well as a review and revision of the COCOPA law.

In an April 2000 report "The War in Chiapas," CDHFBC asserted that the military was the principal aggressor in cases reported to the Center in 1999. The CDHFBC also concluded that the presence of the military put at risk the human rights to life, physical integrity, liberty, and security of the local inhabitants.

In September an ICRC representative stated that while malnutrition still was a problem for displaced indigenous communities who fled their homes in Chiapas, the

problem was not linked solely to food shortages but also to general health conditions. At year's end, the ICRC was feeding over 7,071 persons, the majority internally displaced persons (IDP's), on a continual basis. There still were cases of malnutrition, and the ICRC addressed those cases with food supplements. However, the ICRC's program emphasized prevention and included a training program for community midwives in the displaced communities, who also can disseminate more general health messages. According to the ICRC, the situation in some communities improved when some groups regained access to their land and thus had the potential to earn some income. The ICRC announced that it would likely reduce food assistance after assessing results of the fall harvest. In September the ICRC director in Chiapas informed the press that the aid received by the beneficiaries in Chenalho would be reduced by 30 to 50 percent.

Six persons were detained in connection with the May 1999 attack on indigenous rights leader Heriberto Pazos Ortiz in Oaxaca; two persons were released by "amparo," and four remained in custody at year's end.

In May the U.N. Special Rapporteur on the Independence of Judges and Lawyers voiced his concern about the indigenous population's access to the justice system (see Section 1.e.).

Judges often failed to sentence indigenous detainees within legally mandated periods (see Sections 1.d. and 1.e.). However, federal prosecutors drop drug charges against indigenous defendants whom drug traffickers forced to grow illegal crops, and the INI supports programs to provide translators and bail assistance to indigenous defendants (see Section 1.d.).

Indigenous people do not live on autonomous reservations, although some indigenous communities exercise considerable local control over economic, political, and social issues. For example, in the state of Oaxaca, 70 percent of the 570 municipalities are governed according to the indigenous regime of usages and customs, which may not follow democratic norms such as the secret ballot, universal suffrage, and political affiliation (see Section 3). These communities apply traditional practices to resolve disputes, including allegations of crimes, and to elect local officials. In 1998 Quintana Roo's state Legislature passed a similar usages and customs law. While the laws allow communities in these states to elect officials according to their traditions, these usages and customs tend to exclude women from the political process (see Section 3).

There were reports that public health institutions performed forced sterilizations in marginalized indigenous areas (see Section 1.f.).

The law provides some protection for indigenous people, and the Government provides support for indigenous communities through social and economic assistance programs, legal provisions, and social welfare programs. However, these were not sufficient to meet the needs of all indigenous people. Although the national population growth rate has slowed to less than 2 percent annually, the birth rate among marginalized indigenous groups such as those in Chiapas is approximately 5 percent.

The General Education Act provides that educational instruction shall be conducted in the national language (i.e. Spanish) without prejudice to the protection and promotion of indigenous languages. However, many indigenous persons speak only their native languages. The National Statistical Institute reports that there are 62 distinct indigenous languages and 30 dialects. According to a 2000 World Bank report, approximately 808,100 individuals speak only an indigenous language. As a result, 1999 National Indigenous Plural Assembly for Autonomy (ANIPA) statistics suggest that indigenous people have a high rate of illiteracy and a low rate of school attendance. In commercial transactions, bilingual middlemen take advantage frequently of non-Spanish speakers who also have difficulty finding employment in Spanish-speaking areas.

The President created the sub-cabinet level Office for the Development of Indigenous Peoples led by Xochitl Galvez to complement the efforts of the National Indigenous Institute, the CNDH, and various NGO's, which operate programs to educate indigenous groups about their political and human rights. The Government generally professed respect for their desire to retain elements of their traditional culture in practice. The CNDH's office of the Fourth Inspector General reviews and investigates violations of indigenous rights. More than 130 NGO's are dedicated to the promotion and protection of indigenous rights.

Religious Minorities.—There is a history of religious intolerance in, and expulsions from, certain indigenous communities whose residents follow syncretistic (Catholic/Mayan) religious practices and view other religious practices as a threat to indigenous culture. In parts of Chiapas, local leaders of indigenous communities sometimes regard evangelical groups as unwelcome outside influences and potential economic and political threats. As a result, these leaders sometimes acquiesced in, or

actually ordered, the harassment or expulsion of individuals belonging primarily, but not exclusively, to Protestant evangelical groups. In many cases, these expulsions involved the burning of homes and crops, beatings, and, occasionally, killings. On several occasions, village officials temporarily detained Evangelicals for resisting participation in community festivals. The abuse related to these and other incidents apparently did not occur solely and exclusively on the basis of religion. While religious differences were often a prominent feature of such incidents, ethnic differences, land disputes, and struggles over local political and economic power were most often the basic cause of the problems.

There were reports of conflict between Catholic/Mayan syncretists and Protestant evangelicals in Chiapas. For example in late January, local leaders expelled 150 Protestant evangelicals from their homes in Justo Sierra, Chiapas; and beat several men, according to the Evangelical Commission for the Defense of Human Rights (CEDEH). A formal complaint was filed with the state prosecutor's office in Comitán, and on June 27, state judicial police arrested three community officials. On November 25, 27 families returned to their homes accompanied by Governor Salazar, who had mediated talks between the 2 sides; the 3 community officials also were released and returned home.

Tension between Catholic/Mayan syncretists and evangelical groups continues to be a problem in the municipality of San Juan Chamula. In 2000 CEDEH claimed that municipal authorities had expelled 30,000 persons in the 30 years. However, this report was not confirmed, and a representative from the CNDH told the press on April 19 that there are no official statistics on the displaced. Approximately 130 children of evangelicals have been denied access to the local public schools in 6 communities since 1994.

On April 12, in the community of San Nicolas, Ixmiquilpan municipality, Hidalgo, more than 30 Protestant Evangelical families were threatened by a local official with expulsion by June 18, if they did not contribute money and cement blocks to a community celebration. On August 22, the state governor and the Secretariat of Government's Undersecretary for Religious Affairs convened a meeting with evangelical representatives and town leaders and negotiated an agreement between the parties. Water service to the evangelical families, disrupted for months by local leaders, was restored in late August.

The Adventist Church reported that individuals in the communities of Vicente Guerrero and Juan Sabines have complained that the opening of an Adventist church in neighboring Francisco I. Madero, Tecapatan municipality, would violate local "practices and customs." In March Francisco I. Madero residents requested local government assistance in relieving tension among the communities and convincing the neighboring communities of the Adventists' right to use their place of worship. This report could not be confirmed. In Chiapas the Adventists viewed the local government as reluctant to intervene in towns governed by traditional "practices and customs."

In May four other incidents of intolerance were reported, three in Chiapas and one in Puebla state. In two Chiapas communities, Protestant evangelicals reportedly were detained by community members for failing to make financial donations in support of the syncretistic Catholic celebration of Santa Cruz. Adventists in Tapachula were accused of playing loud music in front of Catholic churches while Mass was being conducted, allegedly infringing upon the rights of their neighbors to unimpeded worship. Finally, in a Puebla community, an Adventist pastor was threatened while proselytizing.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Federal Labor Law (LFT) provide workers with the right to form and join trade unions of their choice. Approximately 25 percent of the total work force is unionized, mostly in the formal sector, where approximately one-half the labor force is employed.

No prior approval is needed to form unions, but they must register with the Federal Labor Secretariat (STPS) or state labor boards (JLCA) in order to function legally. Registration requirements are not onerous. However, the STPS or the JLCA occasionally have withheld or delayed registration of unions hostile to government policies, influential employers, or established unions. For example, in October the STPS refused to register a union to represent professional soccer players. The STPS and the JLCA also have registered unions that turned out to be run by extortionists or labor racketeers falsely claiming to represent workers. To remedy this, STPS officials required evidence that unions were genuine and representative before registering them. Genuine unions are those that can demonstrate that they actually have members and represent the workers at the workplace. Some labor organiza-

tions have complained that they have found it difficult to obtain registration, especially from some local conciliation and arbitration boards.

Human Rights Watch criticized the Government's system of labor tribunals in a 1999 report that claimed that the right to freedom of association often was violated even when courts ruled in favor of organizing workers. The report stated that in the case of the Democratic Union of Workers of the Ministry of the Environment, Natural Resources, and Fishing the courts allowed workers to organize formally, but government officials continued to interfere in such a way that the union could not function effectively.

The Federal Labor Board (JFCA) and the JLCA are tripartite (government, union, employer). Although trade union presence on the boards usually is a positive feature, it sometimes led to unfair partiality in representation disputes. For example, the board member from an established union worked to dissuade a JLCA from recognizing a rival organization. Trade union registration was the subject of follow-up activities pursuant to a 1995 agreement reached in ministerial consultations under the North American Agreement on Labor Cooperation (NAALC).

Unions form federations and confederations freely without government approval. Most unions belong to such bodies, which also must register to have legal status. The largest trade union central is the Confederation of Mexican Workers (CTM), traditionally a part of the labor sector of the PRI, but affiliation is by individual unions.

The Revolutionary Worker and Peasant Confederation (CROC), and most of the separate national unions, smaller confederations, and federations in the Labor Congress (CT) also are allied with the PRI. However, several unions did not ally themselves with the PRI, including SNTE, the large teacher's union, which severed its PRI ties a decade ago, and freed its minority factions—including the CNTE, a breakaway teachers' union—to cooperate openly with other parties, particularly the PRD. In April the Federal Employee Union Federation (FSTSE) ended its longstanding relationship with the PRI. Rivalries within and between PRI-allied locals are strong. There also are a few small labor federations and independent unions outside the CT not allied with the PRI. One is the small, left-of-center Authentic Labor Front (FAT). Most FAT members sympathize with the PRD, but the FAT is independent and not formally tied to the PRD. In 1997 160 labor organizations representing workers in the private and public sectors, led by the telephone workers and social security workers unions, formed the National Union of Workers (UNT)—a labor central in competition with the officially recognized CT. In 1999 the Mexican Electricians Union (SME) announced that it would withdraw from the CT over its failure to give full support to the SME's opposition to the Government's plan to privatize partially the electric power sector. The SME had not withdrawn officially from the CT at year's end; however, it maintains no contact with the CT.

PRI-affiliated union officers traditionally helped select, ran as, and campaigned for PRI candidates in federal and state elections and supported past PRI government policies at crucial moments. The CT, especially the CTM, was well represented in the PRI senatorial and congressional delegations, although its numbers diminished significantly after the 1997 and the 2000 elections.

The ILO Committee of Experts (COE) has found that certain restrictions in federal employee labor law, adopted at FSTSE request, violate ILO Convention 87 on freedom of association. These restrictions allow only one union per jurisdiction, forbid union members from quitting the union, and prohibit reelection of union officials. In 1998 the COE and the ILO Committee on Application of Standards reiterated their criticism and asked the Government to amend the law. The Government responded to the criticism with subsequent labor reforms. A 1999 Federal Supreme Court decision permits the formation and recognition of more than one union per federal entity. On April 17, the Supreme Court ruled that Articles 395 and 413 of the LFT were unconstitutional because they violated the constitutional provision for freedom of association. This decision permits recognition of multiple unions at a company, and workers may obtain and retain employment whether or not they are associated with a union.

In April the Congress approved a package of constitutional reforms on indigenous rights and culture (see Section 5). Critics argue the approved reforms fail to meet the Government's obligations to ILO Convention 169 on Indigenous and Tribal Peoples. The case was pending before the ILO at year's end.

The Constitution and the LFT provide for the right to strike. The law requires 6 to 10 days' advance strike notice, followed by brief government mediation. If federal or state authorities rule a strike "nonexistent" or "illicit," employees must remain at work, return to work within 24 hours, or face dismissal. If they rule a strike legal, the company or unit must shut down completely, management officials may not enter the premises until the strike is over, and the company may not hire re-

placements for striking workers. Provisions for maintaining essential services are not onerous. The law also makes filing a strike notice an effective, commonly used threat that protects a failing company's assets from creditors and courts until an agreement is reached on severance pay. Although few strikes actually occur, informal stoppages are fairly common, but uncounted in statistics, and seldom last long enough to be recognized or ruled out of order. The law permits public sector strikes, but formal public sector strikes are rare. Informal ones are more frequent.

According to the STPS, 35 legal strikes occurred in federal jurisdiction during the year. The Han Young maquiladora plant, target of a 1998 strike and subsequent legal battles, closed in 2000. Courts and administrative bodies have ruled against continuing worker appeals for damages. A union leader and a lawyer, subjects of arrest warrants in 2000, were not taken into custody and the case is effectively closed.

On August 18, more than 10,000 workers at the Volkswagen Plant in Puebla went on strike to demand higher wages comparable to those Volkswagen pays its workers in other countries. The strike was settled peacefully after 18 days of negotiations involving Secretary of Labor Carlos Abascal. The workers won a 10.2 percent raise, above the country's inflation rate.

On September 15, an agreement between Mexicana Airlines management and flight attendants averted a strike that would have had major repercussions for the country's airline industry. The flight attendants received a wage raise of 8.5 percent.

The Constitution and the LFT protect labor organizations from government interference in their internal affairs, including strike decisions. However, this also can protect undemocratic or corrupt union leaders. The law permits closed shop and exclusion clauses, allowing union leaders to vet and veto new hires and to force dismissal of anyone the union expels. Such clauses are common in collective bargaining agreements.

Employer organizations slowed efforts to push for labor law reform early in 1999 and entered into ongoing discussions with the Government and labor unions about reforming the LFT's rules of procedure. Government, employers, and unions had negotiated reforms through tripartite national agreements and collective bargaining at the enterprise level. Reforms were effected also through cooperation in programs to increase, and compensate for, productivity. Government, national labor unions, and employer organizations met periodically throughout the year to discuss ways and means of cooperation to boost productivity, wages, and competitiveness. The STPS sponsored a reformatted restructured committee that was working on draft labor legislation to present to Congress at year's end.

Unions are free to affiliate with, and increasingly are interested in actively participating in, trade union internationals.

A complaint alleging a refusal on the part of the Government to register the Academic Workers Union of the National College of Technical Occupational Education (SINTACONALEP) as a union still was pending before the ILO's Committee on Freedom of Association (CFA) at year's end. SINTACONALEP's employer, the National College of Technical Occupational Education (CONALEP), requires its teaching staff to sign documents denying the existence of an employment relationship thereby feigning a type of relationship that is covered under the civil code and not the LFT; the form, terms, and conditions all indicate an employment relationship. Hence according to STPS, SINTACONALEP members do not meet the definition of workers under the LFT to be registered as a union. In 1999 the CFA issued an interim report requesting that the Government provide a copy of the applicable law that denies trade union status to SINTACONALEP and that the Government investigate the allegations of interference and antiunion discrimination on the part of CONALEP. In October 1999, the Government responded and claimed that the refusal to register SINTACONALEP was in accordance with the legal provisions in force in the country and with ILO conventions. The CFA subsequently requested more detailed information from the Government, and noted that the Government's response had not addressed all of SINTACONALEP's complaints.

b. The Right to Organize and Bargain Collectively.—The Constitution and the LFT provide for the right to organize and bargain collectively. Interest by a few employees, or a union strike notice, compels an employer either to recognize a union and negotiate with it or to ask the federal or state labor board to hold a union recognition election. LFT prounion provisions led some employers to seek out or create independent "white" or company unions as an alternative to mainstream national or local unions. Representation elections are traditionally open, not secret. Traditionally, management and union officials are present with the presiding labor board official when workers openly declare their votes, one by one. Such open recounts, which in the past have resulted in the intimidation of prounion workers and in re-

prisals against them, are prevailing practice but are not required by law or regulation. Secret ballots are held when all parties agree.

On March 2, at a foreign-owned company in Rio Bravo, Tamaulipas, the JFCA allowed an independent union election in response to employee claims that the long-standing union, CROC, engaged in harassment and coercion at the workplace. However, the JFCA rejected the proposal to employ a secret ballot, citing that its use would be onerous and make it impossible to verify that workers had standing to vote. A total of 502 workers of an estimated 1,400 voted. The JFCA reportedly allowed new employees and management and office personnel, who did not have a legal right to vote, to participate in the election; however, the JFCA reportedly denied some illegally fired workers their legal right to vote. The CROC retained the collective bargaining contract as a result of the ballot. The AFL-CIO, protesting the election, made a submission to the National Administrative Office (NAO) in Washington D.C. charged with oversight of the North American Agreement on Labor Cooperation.

Wage restraints no longer exist, except for those caused by recession or an employer's difficult situation. Wages in most union contracts appeared to keep pace with or ahead of inflation, but most workers had not yet regained buying power lost over the past decade.

The country's record for internal union democracy and transparency was spotty. Some unions were democratic, but corruption and strong-arm tactics were common in others.

In a case involving freedom of association linked to the right to organize unions, in 1997 a total of 9 unions and 24 human rights NGO's jointly filed a submission with the U.S. NAO alleging that a CTM-affiliated union used strong-arm tactics to intimidate workers so that they would not vote in favor of a rival union to represent workers at a plant in Mexico state. This submission also alleged violations of health and safety regulations. The Canadian NAO also received a submission on this case in 1998. The U.S. NAO issued a report in 1998 that recommended ministerial consultations. A May 2000 agreement between the U.S. and Mexican Labor Secretaries and adhered to by the Canadian Labor Minister provided that the Mexican Labor Secretariat hold a public NAFTA conference in Mexico City in fall of 2000 to address the issues raised in the complaints. However, at year's end, the conference had not taken place.

The public sector is almost completely organized. Industrial areas are organized heavily. Even states with little industry have transport and public employee unions, and rural peasant organizations are omnipresent. The law protects workers from antiunion discrimination, but enforcement is uneven in the few states with low unionization.

Unionization and wage levels in the in-bond export sector varied by area and sophistication of the manufacturing process. Wages have been lower and job creation has been greater in this sector than in more traditional manufacturing. Wages in the maquiladora sector still were lower than in the traditional manufacturing sector, although they were approaching manufacturing sector level. Some observers alleged poor working conditions, inadequate wages, and employer and government efforts to discourage unionization in this sector. There was no evidence that the Federal Government opposed unionization of the plants (the maquiladora sector tends to be under state jurisdiction), but some state and local governments in the west are said to help employers discourage unions, especially independent ones, through the use of protection contracts. Protection contracts, to which the workforce is not privy, are used in the maquila sector and elsewhere to discourage the development of authentic unions. These contracts are collective bargaining agreements negotiated and signed by management and a representative of a so-called labor organization, sometimes even prior to the hiring of a single worker.

On September 21, according to the international NGO Campaign for Labor Rights, workers at a Nike contract factory succeeded in forming an independent union when the South Korean-owned Kukdong International factory in Atlixco, Mexico state, certified the independent union, Sitemex, for 450 workers. The certification of Sitemex represents the first instance in which an independent union ousted an institutional union.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, trafficking in persons, including children, for sexual exploitation and forced labor is a problem (see Section 6.f.). There also were cases of abuses of refugees and undocumented immigrants (see Section 2.d.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution prohibits children under 12 years of age from working and sets the minimum legal work age at 14 years; however, child labor is a problem. Those between

the ages of 14 and 15 may work only limited hours, with no night or hazardous work, which generally makes hiring them uneconomical. Enforcement was reasonably good at large and medium-sized companies, especially in maquiladoras and industries under federal jurisdiction. Enforcement was inadequate at many small companies and in agriculture and construction. It was nearly absent in the informal sector, and the government's efforts to enforce the law stalled.

A 2000 report published by UNICEF and the National Action Commission in Favor of Children reported that approximately 3.5 million children between the ages of 6 and 18 work regularly. Approximately 1.2 million children work in agriculture, particularly in the northern states. UNICEF and the DIF, in a 1999 study of working children in the 100 largest cities, estimated that 150,000 children work in those cities.

In 1996 the ILO reported that 18 percent of children 12 to 14 years of age work, often for parents or relatives. Most child labor is in the informal sector (including myriad underage street vendors), family-owned workshops, or in agriculture and rural areas. Mexico City's central market employs approximately 11,000 minors between the ages of 7 and 18, who work as cart-pushers, kitchen help, and vendors. The children do not receive a fixed wage, and most work long shifts, starting in the early morning hours. The CTM agricultural union's success years earlier in obtaining free transport for migrant seasonal workers from southern states to fields in the north inadvertently led to a significant increase in child labor. The union and employers were unable to convince indigenous farm workers to leave their families at home, and many settled near work sites in the north. The union has had some limited success in negotiating with employers to finance education in Spanish and indigenous languages near work sites and in obtaining social security child care centers, but it has had difficulty in persuading member families not to bring their children into the fields. Many urban child workers are migrants from rural areas, are illiterate, and have parents who are unemployed.

The Federal Government's antipoverty program works to keep poor children in school as an alternative to work (see Section 5). The government of the Federal District implemented a law adopted in 1999 that increased limitations on working hours and conditions for children employed as supermarket baggers and automotive attendants.

The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, trafficking in children is a problem (see Sections 6.c. and 6.f.).

e. Acceptable Conditions of Work.—The Constitution and the LFT provide for a daily minimum wage. The tripartite National Minimum Wage Commission (government, labor, and employers) usually sets minimum wage rates each December, effective on January 1, but any of the three parties can ask that the wage commission reconvene during the year to consider a changed situation. In December 2000, the wage commission adopted a 6.9 percent increase effective on January 1, based in part on the Government's projection of a 6.5 percent annual inflation rate. By January 12, there was unanimous support among the tripartite members of the wage commission for establishing a consultative committee for the modernization of the minimum wage system. A consultative committee comprised of employers, union, academic specialists, and a government representative was formed and completed its work during the year.

In Acapulco, Mexico City, and nearby industrial areas, southeast Veracruz state's refining and petrochemical zone, and most border areas, the minimum daily wage was set at \$4.48 (40.35 pesos). However, employers actually paid \$5.11 (45.95 pesos) because of a supplemental 14 percent subsidy. These income supplements to the minimum wage, agreed to in annual tripartite pacts, are for all incomes less than four times the minimum wage, and decrease as wages and benefits rise. In Guadalajara, Monterrey, and other advanced industrialized areas, the minimum daily wage (before the subsidy) was \$4.22 (37.95 pesos). In other areas, it was \$3.98 (35.85 pesos). There are higher minimums for some occupations, such as the building trades.

The minimum wage does not provide a decent standard of living for a worker and family. Few workers (approximately 16 percent) earn only the minimum wage; most workers earn more than the minimum wage, and industrial workers average three to four times the minimum wage, earning more at larger, more advanced, and prosperous enterprises.

The law and contract arrangements provide workers with extensive additional benefits. Legally required benefits include free social security medical treatment, pensions, individual worker housing and retirement accounts, substantial Christmas bonuses, paid vacations, and profit sharing. Employer costs for these benefits add from approximately 27 percent of payroll at marginal enterprises to over 100 percent at major firms with good union contracts. In addition, employers frequently

subsidize the cost of meals, transportation, and day care for children, and pay bonuses for punctuality and productivity.

The LFT sets six 8-hour days as the legal workweek, but with pay for 56 hours. For most industrial workers, especially under union contract, the true workweek is 42 hours, although they are paid for 7 full 8-hour days. This is one reason why unions vigorously defend the legal ban on hourly wages. Workers asked to exceed 3 hours of overtime per day or required to work overtime on 3 consecutive days must be paid triple the normal wage.

There are 11 special labor arbitration and conciliation boards (in Queretaro, Pachuca, Ciudad del Carmen, Zacatecas, Orizaba, Ciudad Juarez, Cancun, Colima, La Paz, Reynosa, and Tijuana) and 4 more state offices of the STPS to make it more convenient for workers to file complaints and bring other actions before the labor court system.

The law requires employers to observe occupational safety and health regulations, issued jointly by the STPS and the Social Security Institute (IMSS), and to pay contributions that vary according to their workplace safety and health experience ratings. LFT-mandated joint management and labor committees set standards and are responsible for workplace enforcement in plants and offices. These committees meet at least monthly to consider workplace needs and file copies of their minutes with federal labor inspectors. Federal and state authorities exchange information.

STPS and IMSS officials continued to report that compliance is reasonably good at most large companies. However, because smaller firms are far more numerous and so much more difficult to monitor, these officials were unable to draw any general conclusions about their compliance. There were not enough federal inspectors to enforce effectively health and safety standards at smaller firms. There are special problems in construction, where unskilled, untrained, poorly educated, transient labor is common, especially at many small sites and companies. Many unions, particularly in construction, are not organized effectively to provide training, to encourage members to work safely and healthily, to participate in the joint committees, or to insist on their rights.

To protect the rights of workers, the Secretariat of Labor made 9,593 safety and hygiene inspections in private factories and public institutions through August and estimated that it would complete 13,790 by the end of the year. However, while the Government increased the number of federal inspectors in 1997 and concluded agreements with more states to expand and better coordinate labor inspections, the number of maquila plants (approximately 3,500) far exceeds what the less than 700 (approximately 350 state and 341 federal) inspectors can monitor.

In July 2000, a large group of U.S., Canadian, and Mexican labor organizations and NGO's filed a submission with the U.S. NAO alleging the failure of Mexican labor authorities to comply with health and safety regulations resulting in occupational injuries to a number of workers at maquiladora plants belonging to a U.S. company in the border state of Tamaulipas. The U.S. NAO accepted the submission in September 2000 for formal review and conducted a public hearing in San Antonio, Texas, in December. Following the hearing, the U.S. NAO issued a report on the matter and requested consultations. The STPS agreed to the consultations; however, consultations were not scheduled by year's end. The STPS conducted regular and periodic inspections of the plants, but the U.S. NAO questioned their efficacy.

Many agricultural workers are internal migrants, who often travel with their families, including young children. They often are paid by volume of the work they produce, rather than by the day. Working conditions vary by area of the country and from one locality to another. Allegations have been made that workers, including young children accompanying them, have been exposed to pesticides and other chemicals.

Individual employees or unions also may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment. Plaintiffs may bring complaints before the federal labor board at no cost to themselves.

f. Trafficking in Persons.—There are no specific laws that prohibit the trafficking of persons, although other laws may be used to prosecute traffickers of undocumented migrants, women, and children; however, trafficking is a serious problem, and there were credible reports that police, immigration, and customs officials were involved in the trafficking of such persons (see Section 2.d.).

Mexico is a source country for trafficked persons to the U.S., Canada, and Japan, a transit country for persons from various countries, especially Central America and China, and a destination country for children trafficked from Central America, especially from Honduras to Tapachula, Chiapas. There are an increasing number of persons from Brazil and Eastern Europe transiting through the country, some of whom are trafficked. Salvadorans and Guatemalans, especially children, are traf-

ficked into the country for prostitution, particularly on the southern border. Internal trafficking, including of children for sexual exploitation, also is a problem. Russian criminal organizations reportedly traffic women from Eastern Europe into the country to work in nightclubs.

A study that was jointly funded by UNICEF and DIF and released in June 2000 studied children in six cities, and concluded that the commercial sexual exploitation of children was present today throughout the country (see Section 5). Its author estimated that the number of children involved in sexual exploitation countrywide at 16,000. Most were citizens, although there were significant numbers from Central America, principally Guatemala, Honduras, and El Salvador. The Central American children entered the country through Chiapas. In many cases, those who brought them in the country promised them employment in legitimate occupations. Thereafter they were sold to the owners of bars and other establishments and then forced into prostitution to "pay off their debts." This debt peonage often never ends because the children accrue more debt for their meals and housing. The owners sold or traded the children among themselves. Other children were transported to Mexico City for "training" and then were sent to centers of tourism. Some children are trafficked to the U.S. and Canada.

There are no specific laws that prohibit the trafficking of persons, although immigration laws, the federal organized crime law, and federal and state penal codes contain provisions that may be used to prosecute traffickers of undocumented migrants, women, and children. Laws pertaining to trafficking in persons are Article 138 of the Immigration Law, and the Federal Organized Crime Law of the Federal Penal Code. There also are laws prohibiting the sexual abuse or exploitation of children and forced labor by children (see Sections 5 and 6.c.). The PRG and the INM are the agencies responsible for enforcing anti-trafficking laws; however, there is no special program to combat trafficking. In November 2000, the PRG established the Special Prosecutor's Office for Attention to Crimes of Trafficking in Children (see Section 5). The Government prosecutes cases against traffickers, but no statistics were available.

The Government has a Plan of Action to Prevent, Attend, and Eradicate the Commercial Sexual Exploitation of Minors. The program is administered through the DIF and is supported by numerous executive and legislative branch entities. The Chihuahua State Attorney General's Office runs a series of self-awareness programs to educate women about the many dangers confronting them in Ciudad Juarez. There also have been campaigns to prevent illegal migration and migrant smuggling.

The Government has strengthened significantly its cooperation with other countries. In July 2000, the Honduran Government stated that it was working to repatriate from Mexico approximately 400 Honduran girls, between the ages of 10 and 16 years, who after unsuccessfully having tried to enter the U.S. illegally were forced into prostitution in Mexico.

The Government supports general prevention campaigns for children and women, and administers assistance programs for children repatriated to Mexico. The legal framework exists to protect the victims of trafficking and provide social services to these victims. However, in practice persons illegally in the country usually are deported.

Numerous NGO's work on related issues such as migrant trafficking, child prostitution, sexual exploitation, and women's rights (see Sections 2.d. and 5).

NICARAGUA

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In November voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as President in a generally free and fair election; he defeated Daniel Ortega of the Sandinista National Liberation Front (FSLN) and is scheduled to take office on January 10, 2002, when the term of President Arnoldo Aleman, also of the PLC, expires. In the legislative elections, the PLC won 52 seats in the National Assembly, the FSLN won 37, and the Conservative Party won 1 seat. In accordance with the electoral law, the outgoing President and the runner-up in the most recent presidential elections automatically occupy seats in the National Assembly. Thus, the PLC holds 53 seats in total; the FSLN has 38 and the PC has 1. The Supreme Electoral Council (CSE) is an independent fourth branch of government. In 2000 a series of political accords between the governing PLC and the FSLN, although highly controversial, ceded the FSLN more power in several governmental institutions in exchange for the avoidance of

the use of violent protests to achieve political ends. FSLN leaders largely refrained from using or threatening the use of violence during the year. The Constitution provides for an independent judiciary; however, the judiciary is susceptible to political and financial influence.

The president is the supreme chief of the national defense and security forces. President Aleman established the first-ever civilian defense ministry upon his inauguration in 1997. The Ministry of Government oversees the National Police, which is charged formally with internal security; however, the police share this responsibility with the army in rural areas. The National Police continued to reduce the role of voluntary police (private citizens contracted by the National Police to help fill staffing gaps) in law enforcement. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country has a population of approximately 5.2 million. It is an extremely poor country, with an estimated per capita gross domestic product (GDP) of less than \$500. The economy grew at 4.3 percent in real terms in 2000, but the rate declined in 2001. Real GDP growth rate for the year is estimated at 3 percent but the Government may lower the rate to 2.5 or 2 percent growth. The estimated annual rate of inflation was less than 10 percent, marking the third consecutive year of single digit price increases. While the Government estimated that unemployment is less than 11 percent, unofficial estimates of unemployment and underemployment remain as high as 40 to 50 percent. Economic growth was limited due to a worldwide drop in coffee prices, the lack of an adequate legal framework, a fragile banking system, and unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista Government in the 1980's. The economy is predominantly agricultural; coffee, seafood exports, sugar, beef, and some light manufacturing are the key sectors. The country continued to have a precarious balance of payments position and remained heavily dependent on foreign assistance and remittances from citizens living abroad.

The Government generally respected many of its citizens' human rights; however, serious problems remained in some areas. Members of the security forces committed 15 reported extrajudicial killings at year's end. Police continued to beat and otherwise abuse detainees. There were allegations of torture by the authorities. Prison and police holding cell conditions remain harsh, although overcrowding improved somewhat. Security forces arbitrarily arrested and detained citizens; however, the number of such reports decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Lengthy pretrial detention and long delays in trials remain problems; however, the judiciary has made efforts to reduce the large case backlog. The judiciary is subject at times to political influence and corruption. The Supreme Court continued its structural reform program for the judicial system. The weakness of the judiciary continued to hamper prosecution of human rights abusers in some cases. A new Journalist Guild Law raised concerns regarding freedom of the press. The Human Rights Ombudsman continued to make publicized recommendations during the year that openly challenged the policies of the Aleman administration; the Ombudsman publicly attributed significant budget reductions for his office to these criticisms. Violence against women, including domestic abuse and rape, remained a problem. Discrimination against women is an ingrained problem. Violence against children is a problem and child prostitution continued. Discrimination against indigenous people also occurred. Child labor remained a problem. Concern over violation of labor rights in free trade zones continued. There were reports of trafficking in women and girls for the purpose of sexual exploitation.

The civil war formally concluded in June 1990 with the demobilization of the Nicaraguan Resistance (RN, or "Contras"). However, the rule of law and basic infrastructure do not extend to all rural areas. Despite the Government's disarmament campaigns, many citizens, especially in rural areas, are heavily armed. Marauding criminal gangs, some of which claimed political agendas, continued to be a problem in the mountainous regions of the north, as well as on the Atlantic coast.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by government officials; however, the police registered 15 allegations of extrajudicial killings by police, 3 of which were dismissed for lack of evidence.

The Inspector General's Office of the National Police received 15 reports of police killing of an alleged criminal and 88 instances in which police seriously wounded criminal suspects while attempting to arrest them. The Inspector General automati-

cally remands to the court system for review cases in which police use deadly force; however, the courts often take considerable time to process these cases (see Section 1.e.). The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the Inspector General's office normally applies a mild punishment, such as suspension or confinement to precinct. Of the 63 cases the Inspector General remanded to the courts during the year, there were no reports of case adjudication.

On January 17, police officials in Managua detained Pedro Antonio Castro Baltodano for robbery. The Nicaraguan Association for Human Rights (ANPDH), a nongovernmental organization (NGO), reported that he was arrested and brought to jail where police officers, particularly by officer Silvio Gutierrez, beat him so severely that he began to vomit blood. The police officials delivered Baltodano to his sister, Azucena Castro Baltodano, claiming that he inexplicably had become sick while in custody. Azucena Baltodano took her brother home, but he continued to vomit blood. On January 19, she took him to a local hospital where he died. The doctor reportedly informed Azucena Baltodano that her brother died as a result of severe beatings. The police dispute this allegation and assert that Silvio Gutierrez is not even enlisted in the police force. There was no investigation.

On May 15, members of the Boaco police formed a blockade on the Pancasan highway to stop a hijacked bus that was taken over by Denny Blandon and three unidentified assailants. When the bus arrived at the blockade, the assailants in the bus began shooting at the police and rammed the bus through the police blockade. The police returned fire while pursuing the bus and captured the assailants several miles behind the blockade. One of the assailants was injured in the leg. One hour later a second passenger bus was approaching the area where the police had captured the assailants, and police officers signaled the bus to slow down. However, the bus did not slow down. The police suspected that the second bus was also hijacked, although it was not, and opened fire on the bus. The bus crashed into a tree and the passengers subsequently took cover in nearby bushes. Voluntary police officer Eugenio Jose Treminio Ruiz believed that one of the passengers leaving the bus was a hijacker and followed him to the bushes. Treminio approached the passenger, Noel Antonio Flores Montoya, robbed his watch, and then shot him. When other voluntary police officers saw this, Treminio threatened to kill them if they told others about the shooting. Flores was brought to a hospital in Matagalpa. He lost an eye as a result of the shooting. The police reported that they are covering the medical expenses of Flores. The police immediately terminated the contract of the involved voluntary police officers, and Treminio was sent to court on criminal charges. At year's end, the court had not issued a ruling. The police officers overseeing the operation received administrative sanctions, including a demotion and mandatory overtime without compensation.

In late 2000, police officers Juan Ramon Velasquez and Leonel Antonio Velasquez were tried and found guilty for the August 2000 killing of Javier de Jesus Solorzano Hernandez. However, the judge gave them a light sentence. The police internal affairs separated the officers from the police force immediately following the guilty ruling.

No charges were filed against the police officers involved in the April 2000 shooting of former resistance member Mauricio Mendoza in Muelle de Los Bueyes, the Southern Atlantic Autonomous Region (RAAS) (see Section 5). After the police investigation determined that the killing of Mendoza during a violent demonstration was in self-defense, former resistance members decided not to pursue a case against the involved police officers.

The policemen involved in the 1999 killing of Pedro Gonzalez Talavera in Villa Sandino, Chontales, were acquitted and transferred to another precinct in late 2000.

In 1997 the Government negotiated the disbandment and disarmament of over 1,200 members, a majority of them former contras, of the "Northern Front 3-80" and promised them food, clothing, seeds, and small plots of land. It also disarmed 423 members of the proSandinista "Andres Castro United Front" (FUAC). Despite these successful disarmaments, armed bands, including former members of the 3-80 Front and FUAC, engaged in murder, kidnaping for ransom, and armed robbery in the north and north-central regions. FUAC members have alleged that they were acting in opposition to the Aleman administration. However, law enforcement groups, human rights organizations, and political analysts described the political motivations as tenuous and stated that most of these actions were purely criminal in nature.

In April FUAC-related gangs killed and beheaded several persons whom they suspected of being associated with the governing PLC. In May the FUAC ambushed a police convoy and wounded an estimated 20 policemen, including a local police chief. In response, a combined police-military counterinsurgency campaign was

launched that resulted in the killing of the primary FUAC leader, Jose Luis Marengo, and several other group members in late July, and sent the rest of the group fleeing into the densely forested Bosawas natural reserve.

In April one police officer was killed when police confronted protesters (see Section 2.b.).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law makes the use of torture a punishable crime; however, police continued to beat and otherwise abuse detainees. There were numerous credible reports that police beat or physically mistreated detainees, often to obtain confessions. During the year, the ANPDH received 95 complaints of torture or degrading treatment by the authorities, compared with 70 in 2000. The Permanent Commission on Human Rights (CPDH) received 120 cases of police abuse, and the Nicaraguan Center for Human Rights (CENIDH) reported 15 related cases. The Inspector General's office recorded 186 complaints of physical abuse by police, including those submitted by the ANPDH and others, and found 61 to have merit. The Inspector General sanctioned 86 officers in these cases. Among the complaints were 88 instances in which police seriously wounded criminal suspects while attempting to arrest them.

At year's end, the police dishonorably discharged 32 officers.

The National Police have reduced the law enforcement role of voluntary police who are private citizens who are contracted by the National Police on a volunteer basis to help fill staffing gaps in several precincts. The National Police provide them with a uniform, and in some cases, with a gun, at the discretion of the police chief. Voluntary police do not receive a salary from the state, and do not receive any professional training. Due to sustained criticism of voluntary police for their involvement in human rights violations, in August 2000, former chief of police Franco Montealegre approved a new police statute terminating the employment of all voluntary police in Managua. Government authorities report that as of October, there still were 2,170 voluntary police located throughout the country; several were implicated in human rights abuses during the year (see Section 1.a.).

While the inspector general's office investigated allegations of abuse and sanctioned the offenders in many cases, a degree of impunity persisted. Inadequate budget support for the National Police also hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, the police were provided with extensive training during the year, much of it through international assistance programs.

The Inspector General's office received a total of 464 complaints of human rights violations by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 143 of these cases to have merit. The Inspector General's office sanctioned a total of 201 officers for violations of human rights. Of those sanctioned, 32 officers were discharged dishonorably, and 63 were remanded to the courts; the rest received lesser punishments, including demotion, suspension, and loss of pay.

On April 4, William Rodriguez Valle reported that police officials in Cua Bocay shot and wounded his brother, Aquilino Rodriguez, for unknown reasons. Aquilino Rodriguez was detained on a warrant because of personal problems with Lucas Zambrana, a police informant. Voluntary police officer, Santiago Hernandez Perez, is suspected of being responsible for the shooting. Although there was no official judicial sentence, the police authorities shortened the contract of the voluntary police officer.

On January 20, Managua police officer Francis Luz Arias Arauz shot and wounded 1-year-old Roger Noel Hernandez Maltez and 9-year-old Joel David Torrez Garcia with a pistol. According to the CENIDH investigation, police officer Arias ran past Hernandez's house in pursuit of robbers. The officer fell and her weapon fired, hitting the two boys, Roger and Joel, who were watching from their house. The police officer was suspended from duty for negligence, and the case was submitted to the local court. The judge ruled that the shooting was an accident. Arias was acquitted of all charges and allowed to rejoin the police force. The police department volunteered to take care of the children's medical expenses at the local hospital.

On June 8, five police officers shot Roberto Solorzano Chamorro and Giovanni Alvarez Chamorro while trying to intercept the two cousins in a car chase. According to police reports, police officers Juan Carlos Barrera Serrano, Harlyn Enrique Herrera Lopez, Edwin de Jesus Medina Fitoria, Juan Jose Calderon Garcia, and Oscar de Los Angeles Cajina Mora were pursuing the men because the two were suspected of having robbed a bank earlier that morning. The police also claimed that one of the cousins pulled out a gun and began to fire at the police officers, at which time the officers returned fire and wounded the two subjects. However, the CENIDH investigation alleged that Giovanni entered a bank only to change a \$100 bill while

his cousin Roberto had to wait outside because he was carrying a firearm. When Roberto tried to enter the bank to inquire why his cousin was taking so long, the security guard immediately called the police who arrived while Roberto and Giovanni were leaving the bank in their car. The police began to pursue them and upon interception fired shots at the two without provocation. CENIDH reported that neither man fired at the police. In late September the police reported that the Solorzano family dropped the case against the officers for unknown reasons.

On April 4, two police officers were involved in the shooting of 16-year-old Geovany Artola Vargas at a high school in Tipitapa. According to police reports, Tipitapa police had two arrest warrants issued against Artola—one for murder and another for assault and robbery. Officer Gerald Jose Espinoza and another police officer found Artola at the neighborhood high school and proceeded to make the arrest. Artola, resisting arrest, attacked the policemen with a machete. Espinoza then began to beat Artola with the back of his pistol and shot him. According to the forensic report, Artola was shot in the back at close range, but the bullet did not cause bone or organ damage. The case was sent to the local court for a hearing. Espinoza was released after 10 days in detention; at year's end, Artola remained in jail waiting to be tried for the outstanding charges of murder and robbery.

On June 12, police officer Miguel Angel Zapata Gomez shot and wounded his neighbor, Bartolo Perez Rodriguez during an argument in Boaco. Perez's son, Jose Rodriguez, appeared at the scene of the crime and screamed that Zapata had killed his father, although the father was still alive. Zapata, in an attempt to silence the son, shot and wounded him. The case immediately was reported to the local police, and officers were dispatched to detain Zapata. Perez and his son were taken to a hospital in Boaco. Zapata was taken to court, but the judge dismissed the case for lack of evidence. Zapata was allowed to rejoin the police force.

On June 17, police officer Bismark Laguna shot gang members Juan Carlos and Lenin Calderon Mendoza in San Isidro, Matagalpa, while trying to break up a fight between police officers and a neighborhood gang. According to National Police records, two voluntary and three regular police officers were patrolling the streets when they stopped at a neighborhood block party to prevent local gang members from disturbing the peace. The gang resisted the orders of the police to leave the party and entered into a fight with the policemen. Police officer Laguna, who was off duty, arrived on the scene, took the gun of a voluntary police officer, fired shots at Juan and Lenin and wounded them critically; they did survive the incident. Laguna was held in detention awaiting trial at year's end.

In May Casa Alianza reported that a court had sentenced police officer Romell Davila Gutierrez to 4 months imprisonment for the severe beating of a homeless child, Wilfredo Quintanilla (age 14 at the time) in September 2000.

The investigation of the March 2000 alleged police beating of Jesus Ramon Olivias Espinoza remained pending at year's end.

In June several demonstrators were wounded when police used tear gas and rubber bullets; the demonstrators reacted violently (see Section 2.b.).

Various NGO's provide the police and the army with human rights training (see Section 4).

Prison conditions remained harsh, but improved somewhat during the year. The Supreme Court (CSJ), the National Police, the Attorney General, the Department of Prisons, and several human rights organizations continued to work together during the year to significantly reduce the number of prisoners who spent 6 months or more of incarceration without a trial (see Section 1.d.). The initiative helped to alleviate overcrowded prisons. As of September, none of the eight correctional facilities maintained prison populations higher than those allowed by U.N. Conventions on the treatment of prisoners. According to government statistics, the prisons had a total inmate population of 5,060 in November, compared with 4,903 in September 2000; the official capacity is 5,132. Detainees are held separately from convicted prisoners. The ANPDH worked with the director of prisons in an effort to ensure that prisoners were released in a timely fashion when their sentence had been served or they were granted parole (see Section 1.e.).

Prison guards received human rights training from NGO's and the Catholic Church and generally treated prisoners well, although there were some reports of abuses. There were no reports of riots or other violence during the year.

The prison system remained underfunded and medical attention ranged from inadequate to nonexistent. Medical care available to prisoners fell far short of basic needs. For example, for all 8 penitentiaries and 5,060 prisoners, prison authorities only maintained a staff of 22 specialists, including doctors, psychologists, teachers, and social workers. Prison authorities also reported that 33 percent of prisoners remained without beds, some prisoners sleep on concrete beds or floors. Several

churches and national and international NGO's donate foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.50 (6 cordobas) and reported that the annual budget for food remained constant. There was some improvement in prison food, but malnutrition remained a problem in local jails and police holding cells. Many prisoners also received additional food from visiting family and friends. Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic.

Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects often were left in these cells during their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 102 prisoners. At the Corn Island jail, six cells each holding six detainees frequently were filled to capacity. The authorities occasionally released detainees when they no longer could feed them.

Only Managua has a separate prison for women; outside the Managua area, women were housed in separate wings in prison facilities and were guarded by female custodians. As of September, females made up 4 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure its proper functioning in such areas as timely release of inmates granted parole.

As of September, 2 percent of the prison population were between the ages of 15 and 18, compared with 3 percent in 2000 and 4 percent in 1999. All youths were housed in separate prison cells from adults; the youths are on a different time schedule for mealtime and recreational activities.

In November Casa Alianza reported that the country had no closed detention center for children under the age of 16, and that the police had been locking up children in inhuman situations, in many cases playing the role of judge and jury. Casa Alianza alleged that while there were few cases of the children being beaten by the police wardens, the children were locked in often totally dark, overcrowded cells for weeks or months at a time. Casa Alianza Nicaragua and the Ombudsman's Office were completing an investigation into the situation year's end. The Director of Prison Systems said that children are held in separate cells and that their rights generally are respected.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, Or Exile.—Arbitrary arrest and detention by the police remains a problem. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members within 24 hours of the detainee's whereabouts. During the year, the police authorities received fewer reports of arbitrary arrests and illegal detentions as compared with previous years. Compliance with this law has increased significantly since 1999, largely due to pressure from the police internal affairs office and support for compliance from the chief of police. Detainees do not have the right to an attorney until they have been charged formally with a crime. Local human rights groups are critical of the law for providing inadequate judicial oversight of police arrests.

Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to prison. Although cumbersome, this law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.).

During the year, the ANPDH received 62 complaints of illegal arrest and arbitrary detention, compared with 155 in 2000. Of those cases sent to the police inspector general's office by the ANPDH and other human rights organizations, 2 complaints were found to merit investigation and 21 remained under investigation at year's end.

An interinstitutional effort comprised of the CSJ, the National Police, the Department of the Penitentiary System, and several human rights organizations significantly reduced the number of prisoners with 6 months or more of incarceration without a trial. Specifically, in February 2000, the penal bench of the CSJ passed an order to all local magistrates to give priority to those cases involving pretrial prisoners with 6 months or more of incarceration. According to government statistics, as of November, only 2 percent of the 5,060 prisoners had been in jail for 6 months or longer without a trial; in 2000 an estimated 4 percent of the prison population experienced an unusually long delay before their court hearing.

Exile is not practiced. There were no reports of political violence against any citizens returning from civil war era self-imposed exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary is susceptible to corruption and political influence. The

judiciary is hampered by arcane legal codes; prosecutors who play a passive role; an underfunded, and understaffed defender's office; judges and lawyers who often lack sufficient training or education; and corruption. In the past, many judges were not lawyers. Judges' political sympathies or acceptance of bribes reportedly often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and in addition to administering the judicial system, also is responsible for nominating all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, which took effect in 1998, the attorney general's office rather than the police investigates crimes committed by and against juveniles. The 1994 military code requires the civilian court system to try members of the military charged with common crimes.

A 5-year administration of justice reform program, begun in 1997, continued during the year. A Judicial Organic Law, which took effect in January 1999, contains a provision establishing minimum professional standards for judicial appointees. The Supreme Court commission supervising the revision of the country's outdated criminal codes and procedures continued its work, in coordination with the National Assembly's judicial commission. Reform of these codes is intended to reduce judicial delays and resulting excessive pretrial detention (see Section 1.d.). In 2000 the Assembly began the process to approve a new draft Criminal Code; however, the Assembly still must approve each chapter of the draft Criminal Code before it can go into effect. In November the National Assembly approved a Criminal Procedures Code, which is not expected to enter into effect until November 2002. In 1999 the National Assembly approved a reform of the Public Ministry's office that streamlined the judicial process by separating the defense and the prosecution functions. Specifically, the reform transferred powers from the National Attorney General to a newly created State Defense Attorney's Office, which is charged with defending the Government against legal action taken by private or other public actors. In November the National Assembly elected Julio Centeno Gomez, the former National Attorney General, as the new State Defense Attorney.

In July 2000, the Government opened new property tribunals to handle cases concerning seized properties (see Section 1.f.).

Although the civil and criminal courts made significant progress in expediting the judicial process for those in prison without a prior court hearing, human rights and lawyers' groups in general continued to complain about the delay of justice, sometimes for years, caused by judicial inaction.

Judges appeared susceptible to corruption and political influence. The shelving of politically charged cases or ruling in favor of the politically connected party remained the most common manifestations of judicial corruption. For example, in May 2000, Alejandro Carrion McDonough, the brother of Army Commander General Javier Carrion McDonough, allegedly killed farmer Pablo Absalon Leal Aguirre in Masaya over a water dispute. The family of Leal took the case to the police and judicial authorities, but in spite of an arrest warrant, the police never apprehended Alejandro Carrion. Following a series of lower court decisions in 2000 on September 7, the CSJ acquitted Carrion. The Leal case was passed the Inter-American Court of Human Rights for review. At the end of 2000, the CSJ removed the judge who was involved in the Leal case.

The Supreme Court continued its campaign to reduce incompetence and corruption in the judiciary. According to a CSJ report released in May, the Judicial Inspector's office received 1,120 official complaints against lawyers, judges, and judicial functionaries in 2000, but action was taken against only 3 judges. Of the three sanctioned judges, one was removed and another was demoted in 2000. The judge who was removed from the bench was involved in the murder case of Pablo Absalon Leal Aguirre. Since the campaign began in 1997, the CSJ has removed a total of 105 judges—more than one-third of the 300 judges in the system.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The Judicial Organic Law provided for the establishment of a public defender's office to represent indigent defendants. The office in Managua maintained a staff of 13 appointed public defenders throughout the year; however, more are needed. The court has requested funding for 26 additional public defenders to be located outside of Managua. Elsewhere in the country where public defenders have not been available, the system in effect before the passage of the Judicial Organic law continued in use. Under that system, the presiding judge appoints attorneys from a standard list to represent indigent defendants, but, because they are not paid by the state, many attorneys have paid a fine of about \$8.30 (100 cordobas) rather than represent such clients.

According to the ANPDH, despite difficulties in implementing fully the provisions of the Judicial Organic law, the number of indigent defendants who went to trial without an attorney to represent them decreased significantly. However, high-ranking officials in the public defender's office complained that they continued to encounter blatant judicial corruption and the willingness of several judges to sentence defendants without a public defender present.

Under the Napoleonic legal system, a trial does not consist of a public hearing. Instead, there is a desk review by a magistrate of the file of the accused. An initial hearing usually is held within the constitutionally mandated 10 days. Although very simple cases or those with high profile or outside interest may be resolved quickly, many languish for months. Due to a lack of administrative coordination between judges and the penal system, many prisoners have remained in prison after their scheduled release date (see Section 1.c.). The CSJ has tried to alleviate the problem by issuing instructions to prison authorities to release prisoners immediately upon the return of an innocent verdict. In addition, the ANPDH worked with the Director of Prisons during the year in an effort to ensure that prisoners were released in a timely manner after serving their sentence or being granted parole.

Despite improvements to the criminal law system, the country still lacks an effective civil law system. As a result, cases more properly handled in a civil proceeding often are transmuted into criminal proceedings. One party then effectively is blackmailed, being jailed due to action by the party wielding greater influence with the judge. In addition, this heavy civil-based criminal caseload claims attention from an overburdened public prosecutor's office and diverts resources that otherwise could be directed toward genuine criminal matters.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for protection against these abuses, and the Government generally respected these provisions in practice. The Constitution stipulates that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications; requires warrants for searches of private homes; and excludes from legal proceedings illegally seized letters, documents, and private papers.

Since the early 1990's, the Government has provided an administrative process for compensation for massive confiscations of private property by the Sandinista government in the 1980's. This compensation generally is considered insufficient, since it is based on the property's taxable value rather than market value, and makes no provision for lost profits or interest from the date taken. Furthermore, compensation is paid in 15-year bonds, which sell at about 19 percent of face value.

A 1997 law intended to improve options for those whose property was taken by the Sandinistas provided for the establishment of new property tribunals with procedures that include mediation, binding arbitration, and expedited trials. After numerous delays, the new property tribunals finally started accepting cases for filing in 2000. The tribunals' administrative offices are fully staffed and mediators and arbitrators have been appointed and are conducting proceedings. As of July, the tribunals reported that 317 cases had been filed. Of these, 184 had passed through the mediation process, 40 of which (22 percent) were settled through mediated settlement agreements. When mediation was not successful, the cases were moved on to arbitration or were returned to district courts for expedited trials. As of July, 44 cases had gone to arbitration but none had completed that stage.

The tribunals receive property cases passed to them by the regular courts and, upon conclusion of mediation or arbitration, return the final decision to the appropriate regular court, which is to issue a court order containing the terms of the final mediation or arbitration results. Most confiscated property claimants using the judicial system do not elect arbitration because the arbitrators are costly; most cases not successfully mediated return to district courts for trial. However, property confiscations from the Sandinista era still are considered legal, as are subsequent transfers of the property to third parties, as long as the confiscations were conducted according to the law at the time. For those whose land was "legally" confiscated and distributed, the only recourse is accepting compensation bonds, which nearly universally are considered inadequate.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The 1987 Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the Government deems inaccurate could be abridged. Although the right to in-

formation cannot be subject to censorship, there is retroactive liability established by law, defined as a social responsibility, implying the potential for sanctions against irresponsibility by the press. Although the legislature did not modify these provisions in the 1995 constitutional reforms, the Government has not invoked these provisions to suppress the media. A new Journalist Guild Law raised concerns regarding freedom of the press.

The Inter-American Press Association (IAPA) reported that during 1999, members of the pro-Sandinista Union of Nicaraguan (UPN) and leaders and members of the pro-liberal Association of Nicaraguan Journalists (APN) attempted to revive legislation to establish a professional journalists' guild. The journalistic community was divided sharply over whether such a law would improve the quality of journalism or merely restrict freedom of speech and of the press.

In January the National Assembly sent a proposed Journalist Guild Law to President Aleman. He vetoed 30 of the 50 articles contained in the proposed law. The remaining 20 articles were either contradictory or meaningless, as they related to the vetoed articles. The President stated that he vetoed the provisions to correct the law's many contradictions, to prevent its violation of the Constitution, and to protect freedom of the press.

The President then sent a counterproposal back to the National Assembly for ratification, which contained stringent guidelines to govern the profession of journalism in the country. On March 6, the National Assembly approved the law unanimously. The vagueness of language concerning the Government's role in establishing and regulating journalists' salaries, and its possible role in governing a professional journalists' association—and thereby journalism itself in the country—remained a concern to many observers. The law also contains clauses that deem uncredentialed journalists to be vagrants, subject to fine if caught practicing their profession. Some journalists believe that the law was passed to discourage them from pursuing their usual style of campaign reporting in an election year, which is investigative, accusatorial, and sensational.

The law was to take effect with stipulations that formation of the guild occur within 3 months. However, the ruling commission that would structure the journalists' guild never was established due to conflicts between journalist associations whose members were to be grandfathered into the guild. The commission was composed of the APN and the UPN. The APN believed that the law should be revised; however, the UPN had the majority of members and considered the law to be acceptable. Due to the continuing gridlock between rival journalist associations, the law has had no practical consequence. The IAPA expressed concern about the possible effect on press freedom of a provision in the new draft criminal code approved by the Judicial Commission of the National Assembly that would increase the possible penalties for libel and slander (see Section 1.e.).

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference. News media covered a series of scandals and allegations of government corruption very openly and without restriction.

The IAPA continued to report that the Government directed a disproportionate amount of total government advertising in the print media to publications favorable to the Government and denied certain tax benefits provided to other media businesses to a newspaper critical of the Government. For example, the IAPA reported that *La Noticia*, a newspaper that supports the Aleman administration, received 45 percent of the Government's expenditures for official notices in the print media, although its market share of circulation is only 2 percent. The leftist-leaning *El Nuevo Diario*, which had depended on a substantial amount of its revenue coming from government-purchased space prior to Aleman's presidency, largely was cut off by the Aleman administration during the year.

The media and political analysts severely criticized President Aleman for his harsh verbal attacks on local journalists when they posed questions that he did not want to answer.

The news medium with the largest national audience is radio, but polls show that television is the primary source of news in the cities. There are 117 chartered radio stations in the country; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are seven Managua-based television stations, six of which carry news programming, often with noticeable partisan political content. In addition, there are 60 cable television franchises that offer services in most large and medium-sized cities.

The Government does not place restrictions on the use of the Internet.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association.—The Constitution recognizes the right to peaceful assembly without prior permission, and the Government gen-

erally respects this right in practice. However, the Constitution also recognizes the right to public assembly, demonstration, and mobilization in conformity with the law, and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission, but many groups chose not to register: they claimed that the process was too cumbersome.

On April 24, riot police dislodged protesters in Mulukuku who wished to have the area declared a municipality. During the confrontation one police officer was killed, and one protester wounded.

In June clashes between police and rioters protesting bus fare hikes led the wounding of several demonstrators and the arrest of 16 persons. Police fired tear gas canisters and rubber bullets at the demonstrators, who retaliated with stones and crude pipe bombs.

The Constitution provides for the right to organize or affiliate with political parties, and the Government generally respects this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive authorization from the National Assembly, which it routinely confers.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

The Government's requirements for legal recognition of a church are similar to its requirements for other NGO's (see Section 2.b.). A church must apply for "Personeria Juridica" (legal standing), which must be approved by the National Assembly. Following Assembly approval, a church must register with the Ministry of Government as an association or a foundation.

The Roman Catholic Church is not an official state religion; however, it enjoys a close relationship with the secular Government. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. Catholic Church leaders routinely meet with senior government officials. The historical position of the Church is such that most religiously affiliated monuments and memorials are Catholic-related. However, the predominance of the Catholic Church does not impact negatively on the religious freedom of others.

d. Freedom Of Movement within The Country, Foreign Travel, Emigration, And Repatriation.—The Constitution provides for the right to travel and reside anywhere in the country and to enter and exit the country freely, and the Government generally respects these rights in practice. In 1998 the Government abolished a requirement that citizens and residents obtain an exit visa to leave the country. However, on February 17, a foreign resident was denied exit from the country because of his involvement in a private suit, even though no judicial order of retention had been placed. The right of citizens to return to the country is not established in the Constitution, but in practice the Government has not restricted anyone's return.

At year's end, the CSJ still had not decided on the legality of the Government's May 2000 decision to nullify the citizenship application of former Minister of Defense, Jose Antonio Alvarado. However, in June the Supreme Electoral Council effectively disqualified Alvarado from the November national elections on the basis of his citizenship status without waiting for a final ruling from the Supreme Court (see Section 3).

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for asylum, and refugees cannot be expelled to the country that persecuted them. The issue of the provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November.

The 1995 reforms to the 1987 Constitution established a more equal distribution of power and authority among the four coequal branches of government. The president heads the executive branch and a cabinet appointed by the president, who is both head of state and head of government, as well as supreme chief of the defense and security forces. The vice president has no constitutionally mandated duties or powers. Both the president and vice president are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates

if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the president to hold consecutive terms in office.

A single-chamber National Assembly exercises legislative power. In 1996 voters chose 93 members, including 20 deputies from nationwide lists, 70 from lists presented in each of the 15 departments and the 2 autonomous regions, and 3 defeated presidential candidates who obtained a minimum percentage of the national vote. Members elected concurrently with the President and Vice President in 1996 are scheduled to complete their 5-year terms on January 9, 2002.

The Supreme Electoral Council is an independent fourth branch of government. In January 2000, the National Assembly approved constitutional amendments supported by the leadership of both the governing PLC and the opposition FSLN. Key elements of the legislation included a change in the requirements that a presidential candidate must meet to avoid a second-round runoff election; expansion of the Supreme Court from 12 to 16 judges; expansion of the CSE from 5 to 7 magistrates; an automatic assembly seat for the outgoing president; a requirement for a two-thirds majority vote in the assembly, rather than the previous qualified majority vote, to remove presidential immunity from prosecution; and the replacement of a single controller general with the a 5-person collegial body charged with investigating allegations of wrongdoing or financial malfeasance by government officials. The legislation provided for election of the president and the vice president in the first round of voting if one political party wins at least 40 percent of the vote, or if one party wins at least 35 percent of the vote and the party in second place is more than 5 percentage points behind the front-runner. In addition, a party loses its legal status if it obtains less than 4 percent of the vote in a general election. The latter provision greatly reduced the number of parties eligible to field candidates in the November general elections—only 3 national parties competed in the elections, compared with over 20 parties in the 1996 elections.

In November generally free and fair national elections were held under the auspices of the CSE, an independent branch of government. Voters elected Enrique Bolanos Geyer of the PLC as president with 56 percent of the vote; Sandinista competitor Daniel Ortega received 42 percent. In the legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the PC won 1 seat. In accordance with the electoral law, the outgoing President and the runner-up in the most recent presidential elections automatically occupy seats in the National Assembly. Thus, the PLC alliance holds 53 seats in total, the FSLN has 38, and the PC has 1. Preliminary CSE reports and public opinion polls indicated that over 90 percent of eligible voters are registered; the CSE also announced that 94 percent of eligible voters cast ballots. Over 12,000 national and international observers declared the elections generally free and fair, despite some logistical and organizational problems. However, on November 8, Daniel Ortega alleged that irregularities in vote counting reduced the number of seats that his party received in Parliament, and the Conservative Party stated that the two main parties were trying to exclude them from parliament. Roberto Rivas, the President of the CSE, stated that he had requested increased police protection after receiving threats.

The percentage of women, indigenous people, and other minorities in government and politics does not correspond to their percentage of the population, although there are no legal restrictions on their participation. Women served as president and vice president until January 1997, and a woman served as president of the CSE until January. Additionally, 3 of 16 Supreme Court justices are female; women hold ministerial, vice ministerial, and other senior positions in government; and voters elected 21 women to the National Assembly in November. Two members of the National Assembly claim indigenous heritage.

The CSE oversees regional elections and works to increase indigenous participation (see Section 5).

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

With some exceptions, human rights groups operated without government interference. Major organizations included the CPDH, the ANPDH, and the CENIDH. The ANPDH, the CENIDH, the CPDH, and the Catholic Relief Services continued to conduct human rights workshops at the police training academy, at various police headquarters, and with army units throughout the country. Some military officers received internationally sponsored human rights training.

In March 2000, Amnesty International reported that the Government had accused CENIDH President Vilma Nunez de Excorcia of obstructing police. In June 2000, Amnesty International reported that she had received telephone threats to her life. Nunez alleged that the death threats were because she spoke out against government complicity in alleged army-ordered killings of FUAC leaders. When she asked

the police to investigate, they concluded that her charges were unfounded and closed the case.

On May 18, the NGO Mission of Observers for Defense of Human Rights visited the country with representatives from the International Federation of Human Rights (IFDH) to evaluate the treatment and influence of local human rights organizations, including that of CENIDH. The IFDH team concluded that the Government does not adequately protect human rights organizations from abuse or mistreatment by government entities. With regard to Nunez's allegations, the IFDH determined that the Government violated her basic liberties.

In September Amnesty International published an Open Letter to the Presidential Candidates, in which the NGO described its main concerns regarding human rights in the country as: Threats and criticism directed against human rights defenders and NGO's by governmental authorities; torture, ill-treatment, and excessive use of force by the police; prison conditions; interference by persons with political power and a pattern of threats against sections of the media reporting on cases of corruption in government circles; and a lack of sufficient resources for the PDH.

The Organization of American States (OAS) Technical Cooperation Mission (TCM) focuses on the 13 municipalities affected most adversely by the decade-long civil war and works on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services help maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operate in areas that are without any governmental presence and serve as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year. Some peace commission members initially reported that soldiers, rural police, and local residents sometimes misunderstood their efforts at advocacy on behalf of jailed criminals, interpreting them as challenges to law enforcement officials' authority. However, during the year, the commissions continued to report increased support from all elements of the societies they serve, including law enforcement.

The Human Rights Ombudsman's Office (PPDDH), the only autonomous government-financed human rights office, continued to focus on filling staffing gaps and organizing its scope and activities. A 1995 law created the PPDDH, with the Ombudsman to be elected by the Assembly; however, it was not until 1999 that the National Assembly elected Benjamin Perez, formerly the head of the Assembly's Human Rights Commission, as the country's first Ombudsman and Julian Corrales as Deputy Ombudsman. Perez relied on the participation of most local human rights organizations to select the Special Ombudsmen for Children's Issues, Women's Issues, and Indigenous Affairs. In December 2000, he selected the Special Ombudsman for Indigenous Affairs, Rev. Norman Bent. The PPDDH began to investigate actively human rights violations during 2000. Perez continued to demonstrate independence from the Aleman Administration. However, the Aleman Administration cut by nearly 40 percent the state budget of the Ombudsman's office, seemingly for political reasons, and the reduced operating budget has limited the effectiveness of the office and its ability to establish offices throughout the country.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, religion, opinion, national origin, economic condition, or social condition; however, in practice the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

Women.—The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. The National Police reported that of 39,423 reports filed by women between January and August, more than 13,468 concerned physical or sexual abuse; an increase in the number of reported cases from 2000.

The 1996 Law against Aggression against Women reformed the Criminal Code to criminalize domestic violence and to provide up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women fear for their safety. The National Police, as well as local human rights groups, have confirmed that while police sometimes intervene to prevent domestic violence, they rarely prosecute perpetrators because victims often refuse to press charges. Those cases that actually reached the courts usually resulted in not guilty verdicts due to judicial inexperience with, and lack of legal training related to, proper judicial handling of such violence.

The Criminal Code provides punishment for sexual abuse and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between 9 months and 4 years in prison. According to statistics from the National Police, the police received 1,170 rape complaints during the year. In 2000 there were 1,181 reported instances of rape. Many women are reluctant to report abuse or file charges due to the social stigma attached to victims of rape.

The police manage 18 women's commissariats in 14 cities. Each commissariat is located adjacent to a police station and is staffed by six police officers, two social workers, one psychologist, and one lawyer. However, due to a lack of funding, the staff size is often limited to a far smaller number. The commissariats provide both social and legal help to women and mediate spousal conflicts.

In 1999, with the help of the CENIDH, Zoilamerica Narvaez filed a complaint with the IACHR against her stepfather, FSLN leader, National Assembly Deputy, and former President Daniel Ortega (a candidate in the November general election) accusing him of sexual molestation and harassment. The case publicized the problems of incest, rape, and women's rights and also highlighted the issue of immunity from prosecution for parliamentary deputies. In 1999 the IACHR officially opened a case in response to Narvaez's complaint and advised the Government that it would be required to respond to the charges; in September 2000, the Government responded that the claims made by Narvaez were unfounded and merited no further investigation. The Government argued that the State did not violate her constitutional rights because the legislative and judicial branches gave her case due consideration. On October 19, the IACHR decided to accept the Narvaez case and was investigating it at year's end. A formal hearing is scheduled for March 2002. On December 12, Ortega renounced his congressional immunity from prosecution to face Narvaez's charges. However, on December 19, Judge Juana Mendez dropped the rape charges against Ortega on the grounds that the 5-year statute of limitations, which began when Narvaez filed her complaint in 1999, not his December renunciation of immunity, had run out. Narvaez appealed the decision, and the case was pending in the courts at year's end.

Prostitution is legal and common. In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, who are often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele are sailors. Corinto is unusual in that prostitutes receive medical examinations and a card certifying their health if they are free of disease. In addition, prostitutes in Corinto reportedly often work together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes do not have access to medical screening or treatment.

There were credible reports that some women were trafficked for prostitution (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Although the Constitution provides for equality between the sexes, discrimination against women persists. According to a poll released in April 2000, women comprise approximately 61 percent of the public labor force, a number much larger than in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differ significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advance more quickly than women. Women constitute the majority of workers in the traditionally low-paid education and health service sectors. According to a 1998 report, women have equal or somewhat better access to education than men, especially in urban areas.

Women are generally underpaid, but the majority of women have some type of employment. The International Labor Organization (ILO) released a study in October on women in the labor force. It concluded that of the 561,000 employed women, 184,000 are self-employed and 377,000 are salaried workers. When comparing these figures with those of a 2000 U.N. Development Program (UNDP) report, the total number of women employed represents a large majority of women who are capable of working. More than 92 percent of women capable of employment have some type of job.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the status of women in the workplace. The Program for Reform and Modernization of the Public Sector, directed by the Vice President, collects statistics on salary differences and hiring techniques in the public sector, thereby publicizing the issue of discrimination. However, it is unclear what measures have been taken to counteract such discrimination in practice.

Children.—The Government expresses its commitment to children's human rights and welfare publicly but does not commit adequate funding levels to children's programs or primary education. A constitutional provision known as the 6 percent rule automatically allots 6 percent of the annual budget to a higher education consortium, often at the expense of funding for primary and secondary education programs. Children 18 years of age and younger made up approximately 53 percent of the population. A 1995 study showed that as many as 40 percent of all children are not registered officially. Education is compulsory through the sixth grade, but this provision is not enforced. The study also indicated that 45 percent of children do not attend school. Primary school enrollment rates for boys and girls are estimated at 73 and 75 percent, respectively; secondary school enrollment rates are 39 and 47 percent.

Children increasingly were involved in crime both as victims and as perpetrators. From 1993 to 1997, offenders under the age of 17 increased from approximately 1.5 percent to approximately 15 percent. During the year, 51 minors died as a result of violent crime. During the same period, victims of rape included 227 children under the age of 13 and 585 between the ages of 13 and 17. There were an estimated 2,820 reported cases of child abuse (physical and psychological), 10 cases of the kidnaping of children, and 95 children who disappeared. It is estimated that about 63 percent of sexual abuse victims are under the age of 18, and that 36 percent are younger than 13. Over 676,000 children are at-risk and exposed daily to violence, abuse, exploitation, and neglect. According to UNICEF, this number is expected to increase because the population of children under the age of 5 years who live on the streets is increasing.

According to local media and the Ministry of the Family, the incidence of child prostitution increased, especially in Managua, and near border cities and ports. Although national figures are not available, a study conducted in Managua in 1998 found that 40 percent of the 1,200 prostitutes in the city were under the age of 18. No numbers were available for other cities, but in 1998 UNICEF reported that teenage sexual exploitation had increased in recent years in rural areas, border cities, ports, and in Managua. UNICEF also noted significant growth in prostitution among children between the ages of 12 and 16 in towns where taxi drivers were said to serve as middlemen. OAS personnel in the country also noted an increase in prostitution among girls as young as 10 years of age; in rural areas, their clients are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway. From December 1998 to May 1999, the Ministry of the Family sponsored an investigation into child prostitution in five municipalities. Of the more than 300 children surveyed, 82 percent reported that they had started engaging in prostitution within the past year. Many of those surveyed said that they engaged in prostitution to buy basic necessities such as food and clothing, or to support a drug habit. A 1999 survey by the NGO Casa Alianza reported that of 520 children, 504 admitted to using drugs, usually glue. There have been cases of adults who exchange sexual favors with street children in return for glue. In 1999 a National Forum against the Sexual and Commercial Exploitation of Children and Adolescents was created to fight for children's rights and bring this issue to the public attention; however, it failed to take any actions during the year.

The Child and Family Law, which took effect in late 1998, provided that juvenile prisoners could no longer be held in adult facilities or for more than 24 hours without being charged (see Section 1.c.). However, implementation of the new law proved problematic.

Child labor is a problem (see Section 6.d.).

The First Lady has established several commissions on children's issues. Mrs. Aleman headed the National Council for the Protection of Children and the National Council for the Eradication of Child Labor.

Persons with Disabilities.—In 1998 the Ministry of Health created a National Council for Rehabilitation to address the needs of the 600,000 citizens with some type of disability, only 3 percent of whom receive medical treatment. Through its clinics and hospitals, the Government provides care to war veterans and other disabled persons, but the quality of care is generally poor. However, with assistance from international NGO's, foreign governments, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members.

Despite some efforts, the Government's past role in helping the disabled is minimal and often has been criticized. It has not legislated or otherwise mandated accessibility to buildings for the disabled. In the spring of 2000, the Ministry of the Family announced that it would cut a considerable amount of financial support for the Blue Bird Protection Association that shelters about 100 persons with disabilities, aged from 10 months to 40 years old, who are considered unable to care for them-

selves. Although the Ministry agreed to cover a significant percentage of the Association's budget, its failure to do so forced the Association's employees to go without pay, and resulted in a significant decrease in medicinal, clothing, and food supplies. Many organizations that help the disabled called for the Government to focus more attention on the needs and interests of persons with disabilities.

The 1995 Law to Protect Disabled People states that companies are obligated to contract persons with disabilities, that such disabilities cannot affect their salaries, and that disabled persons must be considered equal to other workers. However, representatives of the Danish Association of Disability have noted that this law rarely is put into practice. In the past 2 years, this organization has implemented a program called Prodinic, with the objective of strengthening the country's disabled associations by assisting 20 different groups in Managua, Masaya, Leon, Juigalpa, and Esteli. This group is lobbying for easier access to transportation and travel for the disabled throughout the country.

Indigenous People.—Indigenous people constitute approximately 5 percent of the country's population and live primarily in the Northern Autonomous Atlantic Region (RAAN) and Southern Autonomous Atlantic Region. The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the 4 major identifiable tribes are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

In an effort to encourage indigenous participation in Atlantic coast regional elections held in 1998, the CSE distributed electoral and civic education materials in four languages, including Miskito and Sumo. The CSE plans to hold another round of Atlantic coast regional elections in March 2002. The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political organization known as Yatama, which has representation in regional and municipal councils. There is also an armed faction of the same name; the extent to which the two groups are linked is not clear. Like many armed groups operating since the end of the civil war, the Yatama groups combine banditry with a genuine desire to force the Government to devote more resources to their underdeveloped region. However, two factors differentiate the armed groups in the RAAN from those that have operated elsewhere in the country. First, most participants in these groups are Amerindians who long have seen themselves as having a separate culture. Second, drug trafficking and drug money on the Atlantic coast have become far more pervasive than elsewhere in the country. The total strength of Yatama armed groups was estimated at 210 men.

In 1999 President Aleman signed a disarmament agreement with representatives of the Yatama armed groups. In return, the Government made a number of promises to the Miskitos including land to fighters who turned in their arms, support for housing for Yatama-affiliated families, agricultural credits, protection of traditional Amerindian fishing rights, and resolution of long-standing disputes over the boundaries of communal Miskito land. However, these provisions had not been implemented at year's end, which led to threats of remobilization by the Yatama groups.

The CSE ruled in August 2000 that the Yatama political party did not meet the qualifications to participate in the November 2000 municipal elections; however, it was allowed to compete in the November national elections (see Section 3).

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources; however, indigenous people claim that the central government often made decisions without adequate community consultation. In September the IACHR determined that the Government violated the human rights of the Awas Tingni (Sumo) Community by granting logging licenses to foreign companies on indigenous communities' ancestral lands without consulting the communities. The Commission ruled that the country's legal protections for indigenous lands were "illusory and ineffective" and ordered the Government to establish new legal mechanisms to demarcate the traditional lands of all indigenous communities in the country. The Ministry of Agriculture, the Office of Property Affairs in the Ministry of Finance, the regional authorities on the Atlantic Coast, and the Special Ombudsman for Indigenous Affairs are in the process of forming a commission to create new legal mechanisms, but no concrete actions had been taken by year's end. As in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Government health care exists in the Atlantic towns of Puerto Cabezas, Siuna, and Bluefields, but a majority of indigenous people in rural areas have no access to modern health care. Critics of government policy cited extremely high unemployment rates, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic coast is engaged in subsistence fishing, farming, and mining.

National/Racial/Ethnic Minorities.—Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous groups from both the RAAN and the RAAS sometimes linked the Government's failure to expend resources in support of the Atlantic coast population to the existence of ethnic, racial, and religious (principally members of the Moravian church) minorities that predominate in that region.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of workers to organize voluntarily in unions, and the new Labor Code that entered into effect in 1996 reaffirmed this right. The ILO has criticized various provisions in the Labor Code that remain below international standards. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining (see Section 6.b.). The Labor Code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Representatives of most organized labor groups criticize these cooperatives, and assert that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are dominated by employers. According to the Ministry of Labor, approximately 15–16 percent of the work force is unionized. Union membership continued to decrease during the year. Unions are independent of the Government, although many are affiliated with political parties.

The Constitution recognizes the right to strike; however, legal strikes are rare. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management. The Labor Ministry asserts that it would take approximately 6 months for a union to go through the entire process to be permitted to have a legal strike. Observers contend that the process is inappropriately lengthy and so complex that there have been only three legal strikes since the 1996 Labor Code came into effect; however, there have been several illegal strikes (see Section 6.b.).

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Workers involved in illegal strikes often lose their jobs.

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause to fire union executive board members. Such protection is limited to nine individuals per union. However, the Labor Code allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. Business leaders sometimes use this practice to stymie unionization attempts.

Unions freely form or join federations or confederations and affiliate with and participate in international bodies.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right to bargain collectively, and the 1996 Labor Code reaffirmed this right. The Government generally sought to foster resolution of pressing labor conflicts (usually in the public sector) through informal negotiations rather than through formal administrative or judicial processes. According to the 1996 code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are thus organized. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union.

There are 34 enterprises operating in the government-run free trade zones (FTZ), employing approximately 30,000 workers; labor laws apply equally in the FTZ's, except for the minimum wage which varies by industry. In addition, there are 4 authorized private FTZ's; the 10 enterprises in these zones employ some 11,000 workers. Approximately half the workers in the government-run FTZ are represented by

a union organization; however, only about 10 percent of them are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic. The Ministry of Labor reports that there were eight collective bargaining agreements in effect in the FTZ's and five in the negotiation process. Union organizing efforts have encountered strong employer opposition in the FTZ's.

There have been several allegations of violations of the right to organize, primarily at the Las Mercedes FTZ, the largest in Managua, with 15 enterprises and approximately 26,000 workers. The Ministry of Labor has investigated these allegations and has concluded that employers have acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal (see Section 6.a.). Notwithstanding the legality of employer actions, the result has been to weaken significantly an important union in the FTZ, the Sandinista Workers Central (CST). The CST has declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required majority of the workers (see Section 6.a.). Consequently, the Ministry of Labor consistently has ruled the strikes illegal. Employers then fire the striking workers based on the Ministry's ruling.

In essence, employers have taken advantage of the extensive administrative requirements required to declare a strike legal and the CST's failure to follow the prescribed rules.

In April 2000, the representatives of the CST tried to obtain authorization from the Ministry of Labor to go on strike at Chentex, a Taiwanese-owned textile factory, for its failure to honor the terms of its collective bargaining agreement. Negotiations broke down because the CST sought to increase the factory's minimum salary from \$62 to \$115 (800 to 1,500 cordobas) per month, an increase which fell below the Government's estimate of 1,600 cordobas per month for a basic basket of goods (see Section 6.e.). After 50 CST workers participated in a work stoppage, management requested and received permission to fire 11 of the 13 CST board members based on participation in an illegal strike. All of the dismissed members filed an appeal before the labor court, which subsequently found that the workers had been fired properly. The CST then appealed that finding to an appellate court. In addition, scores of workers were fired while many others resigned to show their support for the fired board members.

The CST organized a series of work stoppages leading to the occupation of the factory in May 2000. Chentex then filed criminal charges against the nine board members for damaging property, kidnaping management personnel, and injuring security persons during the takeover. Chentex later filed a petition to have the CST's legal status dropped because after the firings and resignations, they failed to meet the legal minimum of members.

In April an appellate court ruled that the CST board members had been fired improperly. Soon thereafter, Chentex and the CST signed an agreement that provided that Chentex would rehire 4 of the 11 fired board members. The remaining seven received backpay, double severance, vacation pay, and a bonus of approximately \$1,130 (15,000 cordobas). In addition, Chentex agreed to rehire 17 other fired CST workers and to drop all ongoing litigation. As agreed, Chentex rehired the four board members. However, within 1 month, all four CST board members had left the factory. In exchange, Chentex gave each the same severance package as the other seven, who were not rehired. Although the agreement called for the rehiring of 17 non-board members, Chentex and the CST could find only 4 of these who were willing to return to work. These four also have left, allegedly because the CTN workers did not welcome them. The CST's membership at Chentex now falls below the 20 required to be certified, and the CST is no longer a workable union at the factory.

In January 2000, Mil Colores, a textile factory, asked the Ministry of Labor for permission to fire 50 workers as a money-saving measure. Included in the request were 26 of 34 workers who had petitioned in that same month to certify the CST union. The Ministry granted the factory's request to fire the workers and at the same time denied the CST's request because, once the 26 workers were fired, the CST would count only 8 workers as members and therefore would fail to meet the 20-member minimum requirement for certification. The CST alleged collusion between the Ministry and Mil Colores, specifically, that the factory's request to fire the workers was backdated to precede the attempt to form a union. This led to further dismissals and a violent confrontation between workers and security guards and police; 30 persons were injured and 5 were arrested. Shortly thereafter, the company filed criminal charges against 68 workers for involvement in the incident. The president of Mil Colores subsequently dropped all charges and came to an agreement with the CST to rehire dismissed workers on a case-by-case basis. By the beginning of the year, Mil Colores had rehired several CST workers and the CST union had been certified. However, the leader of the CST union resigned from his

position abruptly and left the factory. Several others also resigned. By December the CST union at Mil Colores fell below the number required for certification and was decertified by the Ministry of Labor.

Other than the labor dispute at Chentex, which was not resolved until May, there were no other significant labor disputes this year.

In response to longstanding complaints by union representatives that the Ministry of Labor poorly enforced the Labor Code in the FTZ's, in 1997 the Ministry opened an office in the Managua FTZ to ensure that the code was being enforced. FTZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980's, many workers in the FTZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in FTZ enterprises are better than the national average. For example, some FTZ enterprises assert that they pay wages that average over \$192 (2,400 cordobas) per month, three times the minimum wage.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor but does not specifically address forced or bonded labor by children, and such practices occur. The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars (see Sections 6.d. and 6.f.). There were reports during the year of trafficking in women and girls for the purpose of sexual exploitation (see Section 6.f.).

In July 2000, the Labor Ministry investigated charges of forced labor at a textile factory located outside the FTZ, but operating under the same rules and enjoying the same tax incentive as FTZ companies. The inspector verified that some 34 workers had begun work at 7:00 a.m. the previous day and still were working at 10:00 a.m. the next day when the inspector arrived—a total of 27 hours. The company produced signed documents from the workers stating that they had agreed voluntarily to work extra hours. Privately, the workers stated that they had signed the document for fear that they would be fired if they refused. Moreover, they understood that they would work only 2 extra hours. Although there is no evidence that the company made any threats, the fact that all 34 workers who were requested to work overtime agreed to do so indicates that the workers believed they would be fired if they refused. The workers were only provided with a piece of bread and a bottle of soda during the night that they spent at the factory. The human resources manager who allowed the inspector into the factory subsequently was fired. The Ministry of Labor issued the company a warning and threatened heavy fines and possible closure if the problem recurred. There were no other similar incidents during the year.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal childhood development or interfere with the obligatory school year; however, child labor is a problem. Comprehensive labor legislation protects children up to the age of 18. The Constitution also provides protection from any type of economic or social exploitation. The law prohibits child labor in areas such as mines and garbage dumps and imposes heavy fines for illegal employment. The 1996 Labor Code raised the age at which children may begin working with parental permission from 12 to 14 years. Parental permission to work also is required for 15- and 16-year-olds. The law limits the workday for such children to 6 hours and prohibits night work. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

There are no reliable figures regarding the number of working children, but the Government reports that child labor occurs in both urban and rural areas. The latest official figures estimate that approximately 292,488 children are employed; CENIDH estimates that there are approximately 322,000 working children. Over 140,000 children are employed in rural areas at coffee, tobacco, rice, and banana plantations. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. According to a 1998 UNICEF report, approximately 42 percent of children between the ages of 6 and 9 work. A 1996 study by the National Commission against Child Labor concluded that over 161,000 children between 10 and 19 years of age worked, including approximately 109,000 employed in rural areas such as coffee, tobacco, rice, and banana plantations. The study found that 6,219 children worked in urban areas as beggars, or self-employed car washers or parking attendants. The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars. Child prostitution is a serious problem (see Section 5).

The Ministry of Labor established an inspection unit to monitor occupational safety and health in the agricultural sector, signed agreements with nightclubs and restaurant owners who pledged to comply with labor laws and issued a resolution in 1999 prohibiting employment of minors specifically in the FTZ's. However, child labor occurs due to most families' need of extra income.

The Ministry of Family sponsors several programs that target working minors. These programs, which cover up to 10,000 children nationwide, include childcare services, return-to-school programs, and technical and vocational training. The programs also include training for parents and teachers. The Ministry of the Family, in conjunction with the Ministry of Education, established a program—known as the Traffic Light Plan—to keep 647 children off city intersections where they wash windshields, sell fruit, or beg for money from motorists stopped at red lights. The program provides housing for the 75 percent of these children who are homeless and schooling for the 60 percent who are school dropouts. The Ministry of Family reports that out of 600 children in the Traffic Light Plan, 498 (or 83 percent) returned to school. The remainder returned to the intersections to work.

In September the Government ratified ILO Convention 182 on the elimination of the worst forms of child labor; most of its provisions already were incorporated into the Labor Code. The Convention took effect in June.

e. Acceptable Conditions of Work.—The minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the Legislative Assembly. A different minimum wage applies to each sector of the economy. A new minimum wage scale took effect in February, over 1½ years after the last increase, although by law it must be revisited every 6 months. With some exceptions, such as the fishing and government sectors which remain unchanged, the new monthly minimum wage schedule increased wages for all sectors by approximately 12 percent: agriculture, \$47 (642 cordobas plus food); fisheries, \$51 (700 cordobas); mining, \$145 (1,970 cordobas); industrial manufacture, \$75 (1,016 cordobas); electric, gas, and water utilities, \$97 (1,320 cordobas); construction, \$118 (1,608 cordobas); restaurants and hotels, \$95 (1,290 cordobas); transportation, \$97 (1,322 cordobas); banking, \$86 (1,172 cordobas); community and social services, \$70 (947 cordobas); central and municipal government (includes health and education employees), \$40 (550 cordobas); and FTZ \$71 (960 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. With the exception of the mining sector, the minimum wage falls below the government estimate of what an urban family must spend each month for a basic basket of goods (\$135, or 1,832 cordobas). The majority of urban workers earn well above the minimum rates.

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. The 1996 code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. The code gives workers the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

In May a court ordered several foreign companies to pay more than \$1 billion (13.5 billion cordobas) to banana workers who had been exposed to insecticides from 1968 to 1983.

f. Trafficking in Persons.—The law prohibits trafficking in persons; however, the country is a source for trafficking in women and children for purposes of sexual exploitation. There are reports that procurers from Mexico induce young persons to travel there on the promise of legitimate employment; however, upon their arrival, they are sold to the owners of brothels and then forced to work as prostitutes to repay their debts upon arrival. There were reports in the past that children were trafficked to Guatemala by organized crime rings for the purposes of prostitution. In July 1999, the media reported that Nicaraguan girls had been lured to Guatemalan clubs to work as dancers and waitresses but upon arrival were forced into prostitution.

PANAMA

Panama is a representative democracy with an elected executive composed of a president and 2 vice presidents, an elected 71-member unicameral legislature, and an appointed judiciary. In 1999 voters elected President Mireya Moscoso of the Arnulfista party. The Constitution provides for an independent judiciary; however, the judicial system is subject to corruption and political manipulation.

Panama has had no military forces since 1989. The Panamanian Public Forces consist of the Panamanian National Police (PNP), the National Maritime Service (SMN), the National Air Service (SAN), and the Institutional Protection Service (SPI). A 1994 constitutional amendment formally prohibits the establishment of a permanent military, although it contains a provision for the temporary formation of a "special police force" to protect the borders in case of a "threat of external aggression." The Judicial Technical Police (PTJ), a semiautonomous body with leadership appointed by the Supreme Court, is a separate branch of law enforcement under the Attorney General's Office, and performs criminal investigations in support of public prosecutors. The Ministry of Government and Justice oversees the PNP, the SMN, and SAN; the Ministry of the Presidency supervises the SPI. Police forces respond to civilian authority, have civilian directors, and have internal review procedures to deal with police misconduct. There were reports of instances of abuse by some members of the security forces.

The country has an estimated population of 2.8 million. The service-oriented economy uses the U.S. dollar as currency, calling it the Balboa. Gross domestic product grew by 2.7 percent in 2000; however, growth estimates for 2001 range from 1.0 to 1.5 percent. Poverty persists and income distribution remains extremely skewed with large disparities between rich and poor. Unemployment is estimated at 13.3 percent; however, private economists believe that it may be higher; it reached 50 percent in Colon during the year.

The Government generally respected the human rights of its citizens; however, there continued to be serious problems in several areas. PNP officers are suspected in the deaths of two men. Abuse by prison guards, both PNP and civilian, is a recurrent problem of the prison system. Overall prison conditions remained harsh, with occasional outbreaks of internal prison violence. The Government took steps to reduce the number of arbitrary detentions. Prolonged pretrial detention is a problem. The judiciary is subject to political manipulation, and the criminal justice system is inefficient and often corrupt. There were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches. The media is subject to political pressure, libel suits, and punitive action by the Government. Police conduct toward public protesters was restrained. Violence against women remains a serious problem. Women hold some high positions in Government, including the presidency; however, discrimination against women persisted. Discrimination against indigenous people, blacks, and ethnic minorities continued to be a problem. Worker rights were limited in export processing zones. Child labor is a problem. Trafficking in persons is a continuing problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by government officials; however, the police registered one allegation of extrajudicial killing by police.

In August the bodies of two men were found at the beach of Punta Chame. Their deaths have been linked to two off duty PNP officers who were dismissed and detained. An investigation into the killings was being conducted by the Public Ministry at year's end.

In June four PNP guards at the Tinajitas prison were convicted in the March 1997 beating death of detainee Jose Luis Alvarado.

In January the President established the Panamanian Truth Commission, which began to investigate killings and disappearances believed to have occurred under the 1968–89 military dictatorship (see Sections 1.b. and 4). Among the cases the Commission is investigating is that of an unmarked grave discovered in 1999 on the grounds of a former military base near Panama City believed to contain the remains of leftist leader Heliodoro Portugal. Three former members of the National Guard—Captains Rigoberto Garibaldo, Aquilino Sieiro, and Moses Correa—have been linked to Portugal's kidnaping and killing. The authorities placed Garibaldo under house arrest and forbade the two others from leaving the country until the investigations are complete. The investigations were ongoing at year's end. The human remains

located through the Truth Commission's work remain unidentified pending DNA testing.

The Government did not establish responsibility for the October 2000 attack by approximately 60 assailants, widely believed to be members of a Colombian armed group, on the village of Nazaret, near the border with Colombia, during which an 11-year-old girl was killed, and approximately 12 persons were wounded, including 3 members of the PNP. Two police officers in Darien accused of torturing an Embera Indian suspected of aiding Colombian rebel groups were cleared of all charges during the year (see Section 1.c.).

b. Disappearance.—There were no reports of politically motivated disappearances. In January the Panamanian Truth Commission began to investigate killings and disappearances believed to have occurred during the military dictatorship (see Sections 1.a. and 4). In early August and in October, a team of foreign forensic anthropologists assisted by a dog trained to locate human remains carried out investigations for the Commission. The team located human remains in numerous locations in four provinces of the country.

The Hector Gallego Committee for Disappeared Relatives maintains a list of 120 persons who disappeared during the military dictatorships and who remain missing.

During the year, Revolutionary Armed Forces of Columbia (FARC) guerrillas and possibly other Colombian armed groups reportedly kidnaped persons in the Darien region along the border with Colombia. There were reports that the FARC harassed and killed Darien residents. There were unconfirmed reports that Colombian citizens have been kidnaped and then held in Panamanian territory.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits the use of measures that could harm the physical, mental, or moral integrity of prisoners or detainees, and the public security forces generally performed in a professional and restrained manner. However, there were complaints that prison guards abused prisoners. In contrast to 2000, there were no reported cases of excessive use of force and inhuman punishment against prison inmates during the year; however, abuse by prison guards is a recurrent problem.

In December 2000, Indian community leader Francisco Olivo complained that two police officers in Darien tortured an Embera Indian after he was arrested and accused of aiding Colombian rebel groups. The torture incident reportedly occurred soon after an October 2000 attack on Nazaret (see Section 1.a.). Following an investigation conducted during the year, the accused officers were found to have used handcuffs and necessary force. The case was dismissed.

The legislation providing the legal basis for the PNP includes specific guidelines for the use of force, including deadly force, requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. However, there is no follow-on training in the use of force provided to the PNP.

The PTJ and the PNP have offices of professional responsibility that act as internal affairs organs to hold officers accountable for their actions. Both have staffs of independent investigators as well as administrative authority to open internal investigations. In both organizations, a defined legal process is followed in which, upon completion of the process, the respective director of the PTJ or PNP has the final authority to determine the disposition of each case. The PNP deputy director and secretary general address human rights problems that arise in the police force. The offices of professional responsibility are well known in the community, and the rate of complaints has remained generally constant in the PTJ office. During the year, the Office of the Human Rights Ombudsman received 62 complaints against the police for abuse of authority (see Section 4). The PNP Office of Professional Responsibility received on average 10 complaints per week during the year, an increase from the 6 per week in previous years. An estimated 30 to 40 percent of complaints result in some type of punitive action, and all are archived. Penalties include reduction in rank, dismissal, and in severe cases, criminal prosecution. By year's end, the authorities had dismissed 37 officers for corruption, burglary, and/or bribery. A total of 695 other cases had been submitted for investigation by year's end; 191 cases were closed, and 504 cases remained under investigation.

The PTJ receives complaints from the public, and officers can make anonymous complaints of corruption and other problems. By September the PTJ Office of Professional Responsibility had conducted 101 investigations, which resulted in the dismissal of 7 agents. The majority of open cases were for mishandling official property such as misplacing guns or radios (21 cases), and misconduct or improper behavior when off duty (27 cases).

Corruption among police officers remains a problem. By September the PTJ Office of Professional Responsibility had dismissed seven agents for corruption. In some cases, PNP and PTJ directors enforced other disciplinary measures against officers

with proven involvement in illicit activities; however, both organizations only react to egregious abuses, due to a lack of staff, independence, and institutional priority.

During the year, police generally exercised restraint in their treatment of street protesters. However, police commonly used tear gas against protesters, and in May used tear gas, water cannons, and rubber bullets to quell violence during demonstrations (see Section 2.b.).

Traffickers frequently bribe or evade local law enforcement officials (see Section 6.f.).

The FARC guerrillas and the paramilitary forces of the United Self-Defense Forces of Colombia (AUC) share a long history of spillover of violence from Colombia into the border area on the Darien peninsula, including killings, kidnaping, robbery, and various forms of harassment of innocent bystanders (see Sections 1.a. and 1.b.).

Despite some technical improvements and some training of prison guards during the year in Colombia, overall prison conditions remained harsh and, in some cases, life threatening, due largely to budget constraints. The prison system has 9,626 prisoners but an official capacity for only 6,995 persons. Most prisons are dilapidated and overcrowded. Many of the problems within the prisons stem not only from the obvious overcrowding but also from the lack of separation of inmates according to the type or severity of the crime committed. Pretrial detainees must share cells with sentenced prisoners, in part due to lack of space. On August 6, an inmate close to completing his 1-year sentence for a minor offense was killed by his cellmate, an inmate serving a 5-year sentence for assault with a deadly weapon. A "corregidor" sent the victim to jail (see Section 1.e.). Medical care is inadequate and prisoners sometimes suffer because of the negligence of the guards. Tuberculosis, AIDS, and other communicable diseases are common among the prison population. The Corrections Department does not have an ambulance to take prisoners to hospitals in case of emergencies. However, during the year, the General Penitentiary Directorate (DGSP) received a donation of \$10,000 from Red Cross International, which together with a donation from a legislator, it plans to use to buy an ambulance. Local media report that 28 inmates have been killed and 142 injured due to prison violence since 1996.

Abuse by prison guards, both PNP and civilian, is a recurrent problem. Police officials acknowledge that they have received and investigated 82 cases during the year. A total of 76 were for abuse of authority, and 6 were for mistreatment of prisoners. During the year, a court convicted three custodians from La Joya prison for committing abuses against prisoner Jorge Reyes Alvarez in 1996. In addition, the PNP agent accused in the 1996 beating death of prisoner Jorge Alvarado was found guilty (see Section 1.a.). In one high profile case, 10 members of the PNP were suspended for beating naked prisoners with baseball bats in the (now closed) Modelo prison in 1998; they were awaiting trial at year's end.

The main prisons in Panama City include La Joya (a maximum-security facility), Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. Two additional facilities, La Joyita and El Renacer, hold inmates generally accused of less serious crimes.

Conditions at La Joyita remain problematic, including inmate claims of severe overcrowding, poor sanitation and abuses by prison custodians against inmates. Over 2,000 inmates are held in the facility, which was designed to hold 1,400 inmates. In June Ricardo Julio Vargas, adjunct Ombudsman, unexpectedly visited La Joyita and reported witnessing human rights violations. He emphasized that the sanitation facilities in the prison do not meet minimum health requirements, including a lack of bathrooms in some of the pavilions. He also criticized overcrowding that forced a number of the inmates to sleep in hammocks or on the floor. For example, 185 inmates were housed in a pavilion with a capacity of 80 beds. The Ombudsman also raised concerns regarding an absence of resocialization programs and a lack of access to telephones. Also in June, 570 foreign inmates began hunger strikes to obtain better health care and sleeping facilities, increased time for outdoor recreation, access to education programs, and extradition to native countries to complete prison sentences. After 1 week of inmates strikes, the National Prison Director met with the Ombudsman, eight foreign inmates, and representatives of the Catholic Church and negotiated an end to the hunger strike. Prisoners signed an agreement with government prison and human rights officials that included 18 reforms that the Government committed itself to fulfill, including reducing prison overcrowding, improving sanitation and health conditions, and establishing improved recreation policies. On August 7, at La Joya prison, riot police used tear gas to disperse prisoners who were demanding increased outdoor recreation, access to television, and improvements to cell conditions. The media reported that the prison's medical ward treated five inmates suffering from minor injuries caused by exposure to tear gas. Prison authorities asked inmates to select a "spokesperson" to channel their frustra-

tions in a peaceful manner. Negotiations for better conditions ended the August disturbances, although prisoners continued to stage intermittent hunger strikes to focus attention on their plight. One hunger strike in November included prisoners from La Joya and the Public Prison of David in Chiriqui province.

There are prisons of significant size in David and Santiago. The DGSP did not receive funding to build a large prison facility in Divisa by the end of the year. Small jails attached to local police stations around the country sometimes house prisoners for the entire length of their sentence. The authorities frequently do not address cases of abuse and neglect in these provincial jails due to their low profile in the prison system. Prison authorities hope eventually to close down these provincial jails and house all prisoners in the central jails.

The DGSP largely depends on PNP officers to supply both internal and perimeter security at all prisons. The Government had planned to hire civilian corrections officers (or "custodians") with specialized training to handle inmates in all prisons, but funding constraints have prevented reform. There are over 400 custodians, but due to insufficient funding, the DGSP was not able to hire new civilian custodians during the year. As a result, regular PNP officers still are used to fill staffing gaps. The Government of Colombia provided scholarships for 10 custodians (7 males and 3 females) to attend 4 months of training during the year. The 10 custodians were training coworkers at year's end. The Costa Rican Government has offered training for 50 custodians to attend a 1-month training class in 2002. Custodians do handle inmates within La Joya, El Renacer, and the central women's prison, which uses only female guards. Because prison security rests almost entirely with the PNP, tensions arise between PNP officers and their civilian directors. In addition, PNP officers are untrained for prison duty and generally find the assignment distasteful which contributes to tension and abuses within the prison system. The DGSP does not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board can sanction a PNP agent or a custodian.

Prison conditions on the island penal colony of Coiba remained harsh and dangerous, and national prison authorities plan to close Coiba in 2002. Although the facility no longer holds the most dangerous criminals, it continues to relieve overcrowding elsewhere in the prison system. The prison population at the island prison colony, with a physical capacity of 300, was reduced to 89 inmates, compared with 114 in 2000; none are pretrial detainees. Coiba prisoners suffer from malnutrition and shortages of potable water. Medical care is practically nonexistent; prisoners with AIDS told reporters that they are isolated in small cells, and that medical attention is provided once a year. Escapes from Coiba reportedly are common. In 1998 a prison gang reportedly beheaded four prison escapees who belonged to a rival gang. The authorities concluded a lengthy investigation, and on October 9, a court convicted 7 of the 12 accused gang members of murder. In June 2000, the remains of three individuals were found on the nearby island of Jicarita. The authorities have not yet determined the identity of the remains or the circumstances of their deaths.

La Joya is the primary maximum-security facility and houses most prisoners accused of serious crimes. La Joya's official capacity is 1,324, but it houses over 2,100 inmates. Gang violence is a problem. In June there were press reports that the national policemen who serve as prison guards in La Joya subject prisoners to serious physical abuses and smuggle drugs, weapons, and cellular telephones into the system.

Prison conditions in Colon province also are harsh. The prison frequently has no running water or functioning sewage system and fails to provide the most basic health needs. Colon's main prison, Nueva Esperanza, is near completion and is expected to absorb inmates from Colon's women's prison and the dilapidated public prison, both of which are scheduled to be closed. The new inmates are to be housed in separate sections of Nueva Esperanza. This new prison is expected to include recreational outdoor facilities for the inmates. At year's end, all of the male inmates from the public prison in Colon had been transferred to Nueva Esperanza.

The Human Rights Commission of the Legislative Assembly also reported that prisoners at the Women's Prison of Colon suffer from overcrowding, constant semidarkness, constantly wet floors, and virtually no health care. All female inmates are expected to be transferred to Nueva Esperanza in January 2002. Throughout the country conditions at women's prisons and at juvenile detention centers were noticeably better than at adult male prisons. The central women's prison uses only female guards. However, female prisoners, especially those in the primary detention area, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

Juvenile detention centers throughout the country suffer from inadequate resources to provide for education or adequate supervision of children, many of whom spend the majority of their time in a bare cell.

The law and the Penal Code provide for conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentence, but this provision has not been implemented consistently in practice. A conditional release program was part of the organizational reforms that authorities introduced in 1998. During the year, the DGSP provided conditional release forms to the President for her signature in a more timely manner than in previous years. On July 19, the President and the Justice Minister signed a decree releasing 210 inmates (both male and female) who had served at least two thirds of their sentences. Twenty-seven of the 210 were Panamanians, while the rest were citizens of Colombia, Jamaica, Haiti, Nicaragua, El Salvador, Spain, and Jordan. In addition, two former Panama Defense Forces members who had been incarcerated since 1989 were placed instead under house arrest owing to health conditions. The release program helped to relieve pressure on the overcrowded prisons.

The Government generally allows prison visits by independent human rights monitors. However, the authorities arrange appointments ahead of time, and monitors generally speak to prisoners in the presence of guards or administrators. Prisoners have expressed fear of retaliation if they complain. Justicia y Paz, the Catholic Church's human rights watchdog group, brings prison abuses to the attention of the authorities. There were no reports that officials from the Ombudsman's office had trouble gaining access to prisons. In June an Organization of American States (OAS) Inter-American Human Rights Commission (IACHR) delegation traveled to the country to assess the human rights situation. The delegation visited both La Joya and La Joyita and expressed concern over severe overcrowding and the lack of an adequate prisoner classification system, which forces pretrial detainees to share cells with sentenced prisoners.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution stipulates that arrests must be carried out with a warrant issued by the appropriate authorities, and the Government generally respects this provision in practice. Previously, the authorities often violated the provision that suspects are to be brought promptly before a judge; however, this provision was enforced more strictly during the year. Exceptions are permitted when an officer apprehends a person during the commission of a crime, or when an individual interferes with an officer's actions. The law requires the arresting officer to inform the detainee immediately of the reasons for arrest or detention and of the right to immediate legal counsel, to be provided to the indigent by the State (see Section 1.e.). Police arrested and detained children for minor infractions during neighborhood sweeps (see Section 5).

The Constitution also provides for judicial review of the legality of detention and mandates the immediate release of any person detained or arrested illegally. The Constitution prohibits police from detaining suspects for more than 24 hours without bringing them before a judge. During the year, the PTJ hired 35 paralegals responsible for following up on detention cases. Their responsibilities include preventing detentions that exceed the 24-hour statutory limit. In addition, the PTJ appointed two liaison agents to coordinate with the police to ensure that both institutions respect the 24-hour limit. Under the law, the preliminary investigation phase may last from 8 days to 2 months, and the follow-on investigation phase another 2 to 4 months, depending on the number of suspects. The PTJ paralegals must confirm that PTJ agents comply with these requirements. The courts frequently grant extensions of time limits, leaving the accused in detention for a long period without having been charged formally. The law permits these extensions; however, many legal authorities (including court officials) criticized judges for excessive use of this measure.

Extended pretrial detention continued to be one of the most serious human rights problems, due in part to the elaborate notification phase in criminal cases. According to government statistics, the number of pretrial detainees increased slightly from 4,851 to 5,345, or about 57 percent of the prison population. The average period of pretrial custody was 16 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common. A legal mechanism exists to hold the Government financially accountable in cases in which a detainee spends more than 1 year in jail but subsequently has all charges dismissed at a preliminary hearing because the act of which the detainee was accused is not ruled a crime, or because there is no evidence to link the suspect to the crime. Although this redress procedure is not complicated, few former detainees have employed it.

Legal alternatives to prison exist; however, they are not implemented widely. Options such as house arrest have been used in some cases involving the elderly or

minors, but require that the defendants have access to and understanding of their legal options.

The Constitution prohibits exile; there were no reports of forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary is susceptible to corruption and outside influence, including manipulation by other branches of government.

The President appoints nine Supreme Court magistrates to 10-year terms, subject to Legislative Assembly ratification. The Supreme Court magistrates appoint appellate (Superior Tribunal) judges, who, in turn, appoint circuit and municipal court judges in their respective jurisdictions. Judicial appointments are supposed to be made under a merit-based system, but the top-down appointment system lends itself to political tinkering and undue interference by higher-level judges in lower-level cases in which they often have no jurisdiction.

A point of contention between district court judges and their superior court magistrate bosses is the extreme pay differential between the two. Despite a recent raise, district court judges still make less than half the salary of their immediate superiors. They even make less than many of the administrative personnel on the superior court staff. The pay issue has caused several district court judges to leave the judicial branch.

The Attorney General appoints the superior and circuit level prosecutors. Previously, the Attorney General also appointed the Director and Sub-Director of the PTJ, but a 1998 law transferred this power to the Supreme Court and requires Supreme Court approval of their removal from office. The same law also gave these two officials the power to name other PTJ officials without consulting the Attorney General. Opposition and media critics charged that this law increased the influence of the Supreme Court over criminal investigators, removed the generally positive oversight of the Attorney General, and made cooperation between prosecutors and the police much more difficult.

At the local level, mayors appoint administrative judges, or “corregidores,” who exercise jurisdiction over minor civil cases, and who hold wide powers to arrest and to impose fines or jail sentences of up to 1 year. This system has serious shortcomings: defendants lack adequate procedural safeguards; administrative judges outside of Panama City are usually not attorneys; many have not completed secondary education; and some are corrupt. In practice, appeal procedures are non-existent. Affluent defendants tend to pay fines while poorer defendants go to jail, which contributes to prison overcrowding (see Section 1.c.).

In 1998 the Inter-American Development Bank loaned the Government \$18.9 million to reform the judicial system; the Government contributed another \$8.1 million to the program. The loan is being used at national and local levels to: reduce judicial congestion; improve strategic administration and planning, as well as judicial training; reorganize and administer judicial services; strengthen the investigative capabilities of the Office of the Attorney General; incorporate procedural amendments and access to justice; and encourage citizen participation. Specific achievements of the reform plan at year’s end included a reduction in the civil courts’ backlog of cases, the launch of a citizen’s awareness program on rights and duties, and reorganization of the Forensic Medicine Institute.

The Constitution provides that persons charged with crimes have the right to counsel, to be presumed innocent until proven guilty, to refrain from incriminating themselves or close relatives, and to be tried only once for a given offense. If not under pretrial detention, the accused may be present with counsel during the investigative phase of the proceeding. Judges can order the presence of pretrial detainees for the rendering or amplification of statements, or for confronting witnesses. Trials are conducted on the basis of evidence presented by the public prosecutor. Under limited circumstances, the law permits trials without the accused being present. The Constitution and the Criminal Procedure Code provide for trial by jury at the defendant’s election, but only in cases where at least one of the charges is murder.

The Constitution obliges the Government to provide public defenders for the indigent. However, many public defenders are appointed late in the investigation, and the prosecutor already may have evaluated the bulk of the evidence and made a decision to recommend trial or the dismissal of the charges. Public defenders’ case-loads remained extremely high, averaging some 550 cases per attorney per year. Only 5 new public defenders have been hired since 1992; there are 38 nationwide, with a similar number of assistants. This heavy workload undermined the quality of representation, with many prisoners meeting their public defender for the first time on the day of trial. The inadequate number of public defenders also caused a backlog in trial dates which, in turn, contributed to the problem of prison overcrowding.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of the home, private papers, and telephonic communications, and the Government generally respects these rights in practice; however, there were complaints that in some cases law enforcement authorities failed to follow legal requirements and conducted unauthorized searches. In an effort to prevent unauthorized searches, the Public Ministry has placed a representative, whose job is to approve searches, in each of the PTJ's divisions. The authorities may not enter private residences except with the owner's permission, or by written order from the appropriate authority for specific purposes, such as entry to assist the victims of crime or disaster, or to conduct lawful health and safety inspections. The authorities may not examine private papers and correspondence, except as properly authorized by competent legal authority, and in the presence of the owner, a family member, or two neighbors.

Although the Constitution prohibits all wiretapping, the Government maintains that wiretapping with judicial approval is legal, and that the Attorney General may authorize a wiretap when confronted with probable cause in a serious crime. The law allows the Public Ministry to engage in undercover operations, including "videotaping and recording of conversations and telephonic communications." The Supreme Court has not issued a final ruling on whether wiretapping is constitutional, but it remains an established practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, the media is subject to political and economic pressure. The Government and public figures make frequent use of libel and disrespect for authority laws to confront and attempt to intimidate journalists whom they allege are "irresponsible."

There is an active and often adversarial press and a broad range of print and electronic media outlets, including newspapers, radio and television broadcasts, and domestic and foreign cable stations. Six national daily newspapers, 4 commercial television stations, 2 educational television stations, and approximately 100 radio stations provide a broad choice of informational sources; all are privately or institutionally owned except for 1 government-owned television station. A 1999 law prohibits newspapers from holding radio and television concessions, and vice versa. While many media outlets take identifiable editorial positions, the media carries a wide variety of political commentaries and other perspectives, both local and foreign. There is a noticeable concentration of control of television outlets in the hands of close relatives and associates of former President Perez Balladares, who is a member of the largest opposition party.

Domestic and foreign journalists work and travel freely throughout the country. The law requires directors and deputy directors of media outlets to be citizens.

Under "gag laws" dating from the military dictatorship, the Government has legal authority to prosecute media owners and reporters for criminal libel and calumny. A special executive branch authority has discretionary powers to administer the libel laws, which provided for fines and imprisonment for up to 2 years. Under the statute, opinions, comments, or criticism of government officials acting in their official capacity are exempted specifically from libel prosecution; however, a section of the law allows for the immediate sanctioning of journalists who show "disrespect" for the office of certain government officials. In 1999 the President signed a law that eliminated gag laws, thereby improving the legal status of the media. However, legal actions against many journalists remained pending, and vestiges of the former gag laws still provide a means for charging journalists with defamation. The domestic media faced increased pressure during the year from elements in the Government for criticizing policies or officials. A total of 70 journalists face defamation charges brought under the criminal justice system; in 2000 then-Ombudsman Italo Antinori stated that there were at least 40 cases of journalists who had been accused of defamation.

In March the President of the National Association of Journalists, the Secretary General of the Journalists' Union, and the Editorial Director of the daily newspaper *El Panama America* organized a protest in front of the Supreme Court to protest the Ministry of Justice's handling of freedom of speech issues. Over 100 journalists participated, maintaining that they are victims of harassment by the Government.

Apparent government efforts to limit freedom of the press attracted the attention of the OAS's Special Rapporteur for freedom of the press, Santiago Canton, in part due to the lack of Panamanian media participation at the biannual meeting of the Inter-American Press Association in March. The IACHR delegation that visited the country in June focused on the controversial gag laws and asked the President to eliminate all vestiges of them (see Section 4). In addition, the IACHR recommended

that the Government change the existing legal process and adjudicate libel and slander under civil, rather than criminal, law. In September an OAS report on the status of freedom of speech in the hemisphere emphasized the repressive attitude of the country's judicial system toward the media. The OAS report characterized the Moscoso Administration's approach toward freedom of expression as a setback; the previous report characterized the country as making progress in this area.

The appeal of El Siglo newspaper editor Carlos Singares of his 1999 conviction for criminal libel and his sentence to 20 months in prison was pending at year's end. While Singares was in jail due to articles accusing Attorney General Jose Antonio Sosa of illicit activities, a court sentenced him to 20 months in prison for criminal libel against former President Perez Balladares. Singares is free during his appeal.

The appeal of Jean Marcel Chery, a reporter for the daily newspaper Panama America, of his July 2000 conviction for criminal libel and sentence of 18 months in jail or a fine of \$1,800 was pending at year's end. Chery had reported a woman's allegations that police robbed her of \$33,000 during a search of her apartment.

In September the Moscoso Administration ordered the arrest of Ubaldo Davis and Joel Diaz, two editors of the weekly tabloid La Cascara, for libel and for impugning the honor of various administration officials, including the President. The editors were released, but prosecution continued, and the trial is scheduled for April 2002. Reporters Without Borders and Publishers Against Corruption criticized the arrests.

In October a former vice president filed charges against editorial cartoonist Julio Briceno for lampooning him in the daily newspaper La Prensa. The cartoon criticized the politician's switch in political allegiances. If found guilty, Briceno could face up to 2 years in prison for defamation. His preliminary hearing was scheduled for December 28, but was postponed. No new date had been announced by year's end.

In December reporter Luis Gaitan accused the mayor's office in the city of David of corruption, and was in turn accused of a lack of respect by the mayor. Officials twice attempted to imprison Gaitan, but were prevented from doing so by the use of the courts.

Also in December, Omar Rodriguez, a journalist for La Prensa in the province of Coclé, was threatened with legal action by the regional director of the Ministry of Agriculture for reporting on corruption in the Ministry.

In 1998 then-PNP Director Jose Luis Sosa used the libel laws to bring charges against law professor and former Moscoso adviser Miguel Bernal for statements that criticized the PNP for allowing the decapitation of prisoners on Coiba Island (see Section 1.c.). In 1999 there was a preliminary hearing on Sosa's charges. Bernal requested that the judge accept 37 witnesses; however, the judge rejected 34 of them. Bernal appealed this decision. On May 16, the judge of the 10th Criminal Court accepted Bernal's right to appeal based on Bernal's position that at the time of the incident Sosa was not a guard at the penitentiary on Coiba Island, and therefore could not bring charges. The judge stated that the police in charge were not minors or disabled (and could bring charges), and that the complainant was not their legal representative. However, in September the judge denied Bernal's actual appeal. Bernal then appealed the denial. His appeal was pending at year's end.

In November La Prensa journalist Herasto Reyes received a provisional judgment in his favor regarding the libel charges filed in 1998 against him by then-President Perez Balladares, after Reyes published a story accusing the administration of trying to cover up a government embezzlement scandal.

In another 1998 case, a prosecutor acting on behalf of Attorney General Sossa used the libel laws to charge La Prensa journalists Gustavo Gorriti and Rolando Rodriguez with a "crime against the honor of the authorities" for a story accusing the Attorney General of accepting checks from alleged money launderers in his unsuccessful 1994 campaign for a seat in the Legislative Assembly. Subsequent press reports suggested that the story was erroneous. Gorriti, a Peruvian citizen, departed the country during the year. The case against Gorriti and Rodriguez remained pending at year's end. In order for the case to proceed, Gorriti must be notified legally, which cannot happen since he is in Peru. Rodriguez still works at La Prensa.

A July 2000 law limits access by citizens to specific information about international agreement negotiations and national security, to administrative files within the Solicitor General's office, and to information about such matters as private citizens' health, political leanings, marital status, police or prison records, and bank accounts. The measure took effect on August 2, 2000. The Solicitor General's office indicated that these restrictions already existed in practice, but were codified by the new law. Nevertheless, some legal experts challenged this interpretation, and the media harshly criticized the measure. An OAS Special Rapporteur also criticized the law during a September visit to the country. In November 2000, the Legislative Assembly amended Article 70 of the Solicitor General's Organic Law that regulated

press access to files to read that the confidential classification of a given piece of information must be established objectively and pursuant to conditions contained in the existing laws, to prevent public officials from denying the release of information under the excuse of limited access. The President signed the amendment in December 2000.

The press laws provide for the establishment of a censorship board. The board monitors radio transmissions and has the authority to fine stations that violate norms regarding vulgar, profane, or obscene language.

In July 2000, Bishop Romulo Emiliani left the Darien region following anonymous death threats; he had criticized publicly Colombian paramilitaries, guerrillas, and drug traffickers. He remains out of the country.

Academic freedom is respected. In July the Legislative Assembly passed a bill mandating that all school textbooks written in Spanish must be written by Panamanian authors; however, on August 1, the President vetoed the bill.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respects this right in practice. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. Throughout much of the year, police showed restraint and professionalism while monitoring large protests by students, political activists, prisoners, and workers; however, police commonly used tear gas against protesters.

On May 9 to 11, in Panama City, student and worker protests over bus fare increases turned violent, with Molotov cocktails, rock throwing, and looting. The violence resulted in dozens of injuries, including 115 by gunshots and between 250 and 300 arrests. The protests were among the most prolonged and significant in a decade, with an estimated 3,500 participants. The police used water cannons, tear gas, and rubber bullets to quell the disturbances. Most observers believe that the response by the police was measured and restrained. After several days of negotiations, the Government, moderate labor groups, and bus owners reached an agreement that ended the protests.

In August between 400 and 500 protesters marched through Colon for 2 days to protest unemployment in the city, which has reached 50 percent. When protests turned violent, police responded with tear gas. According to some accounts, 11 police officers and dozens of protesters were wounded in the violence.

The Constitution provides for the right of association, and the Government generally respects this right in practice. Citizens have the right to form associations and professional or civic groups. New political parties must meet strict membership and organizational standards to gain official recognition and participate in national campaigns. In February 2000, Minister of Government and Justice Winston Spadafora denied a petition by the Association of New Men and Women, an informal gay rights organization, to register as a nongovernmental organization (NGO); however, in June the Government recognized that association as an NGO, following the June OAS Human Rights Delegation visit (see Section 4).

c. Freedom of Religion.—The Constitution, although recognizing Catholicism as “the religion of the majority of Panamanians,” provides for free exercise of all religious beliefs, provided that “Christian morality and public order” are respected. The Government generally respects religious freedom in practice, and there is a broad diversity of religions. The Constitution prohibits clerics from holding public office, except as related to social assistance, education, or scientific research. However, Catholicism enjoys certain state-sanctioned advantages over other faiths. For example, the Constitution mandates that Catholicism be taught in public schools, although parents have the right to exempt their children from religious instruction.

d. Freedom of Movement Within the Country, Foreign.—Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice. The Government enforced exit permit requirements for foreigners who overstayed their initial visas. A 9:00 p.m. curfew for unaccompanied minors in the Panama City area remains in effect although enforcement generally is poor.

The law provides for granting refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A 1998 decree grants protection to all persons entering the country due to “state persecution based on race, gender, religion, nationality, social group, or political opinion.” The decree grants 2 months temporary protection to displaced persons in the case of a large influx; the U.N. High Commissioner for Refugees (UNHCR) has criticized this provision on the grounds that it puts persons at risk for forced repatriation within a few weeks of entering the country, without analysis of their possible refugee status. However, in practice this has not occurred. For example, the Government has not forcibly repatriated displaced Colombians, and many Colombians have lived in the

country for years without formal refugee status. The law contains provisions for first asylum. Approximately 60 Colombians were granted asylum during the year. The Government generally cooperates with the office of the UNHCR and other humanitarian organizations in assisting refugees. However, the Government generally is reluctant to classify displaced Colombians as refugees and therefore has opposed a permanent UNHCR presence in the country, although the UNHCR regularly visited border areas to aid displaced Colombians.

Large groups of displaced persons periodically flee violence in Colombia by crossing the border into Panama. In 1999 approximately 800 Colombians fled violence in the Colombian town of Jurado and settled in the Darien town of Jaque. Since their arrival, the Government has cooperated with the Catholic Church and the U.N. High Commission for Human Rights to provide these displaced persons with humanitarian assistance. By the end of the year, approximately 200 Colombians remained in Jaque, while others returned to Colombia voluntarily or migrated elsewhere in Panama. According to a detailed government census, approximately 750 displaced Colombians were in the Darien region as of October.

The Government has offered Colombians the chance to participate in a voluntary repatriation program in coordination with the Government of Colombia, and many agreed to return. The Government worked with the UNHCR and the Catholic Church to provide displaced Colombians with food, medical care, and access to public services, including schools and clinics. The Government provided these services in Jaque and other areas of the Darien. However, many displaced Colombians living along the remote Darien border area were beyond the reach of organized assistance from the Government, the UNHCR, or the Church.

In addition to large groups of displaced persons, illegal aliens also are apprehended in the Darien and other parts of the country in small groups. These immigrants are usually Colombian, but many Ecuadorians, Peruvians, and even Asians and Africans have been detained.

Colombian migration, whether political or economic, has increased significantly pressures on local populations in the Darien and caused the displacement of Panamanian citizens. In addition, the Government suspects that Colombian migration conceals or attracts the presence of armed Colombian groups in the Darien region (see Section 1.c.). The effects of Colombian migration are also evident in Panama City and Colon, where large populations of Colombians have settled.

There were no reports of the forced return of persons to a country where they feared persecution; however, throughout the year, there were unconfirmed reports that the police along the border, on a case-by-case basis, required Colombians to return to Colombia.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their Government, and citizens freely exercised this right in the 1999 general elections. The Constitution provides for a representative democracy with direct popular election by secret ballot of the President, two vice presidents, legislators, and local representatives every 5 years. The independent Electoral Tribunal arranges and supervises elections. While the Constitution provides for independent legislative and judicial branches, the executive dominates in practice. The Government respected the rights of its citizens to join any political party, propagate their views, and vote for candidates of their choice.

In May 1999, Arnulfista presidential candidate Mireya Moscoso defeated Democratic Revolutionary Party (PRD) candidate Martin Torrijos and Christian Democratic Party candidate Alberto Vallarino, winning 44.8 percent of the popular vote. Domestic and international observers characterized the elections as generally free and fair; however, several local contests were marred by reports of vote buying. During President Moscoso's first year in office, she maintained a one-vote majority in the Legislative Assembly through her Arnulfista Party members' coalition with other parties. However, in September 2000, the coalition realigned, and the opposition gained control of the legislature. In July the Christian Democrat Party held a convention and changed its name to the Popular Party. On September 29, the ruling Arnulfista party held a convention where delegates confirmed Mireya Moscoso as the party president.

There are no legal barriers to participation in government or politics by women, members of minorities, or persons of indigenous descent; however, the percentage of members of these groups in government and politics does not correspond to their percentage of the population. Women's participation has increased in the past several years. Mireya Moscoso is the country's first female president. Women hold 7 of 71 Legislative Assembly seats; a woman served as the Assembly's first vice presi-

dent in 1999–2000, another woman held this position for the 2000–2001 legislative season, and a third woman was elected for the 2001–2002 season. Three women hold cabinet positions, and a woman is the director of the Public Registry. Two female judges sat on the Supreme Court during the year, one of whom served as Chief Justice for 1999–2001.

The Government provides semiautonomous status to several indigenous groups in their homelands, including the Kuna Yala, Ngobe-Bugle, Embera Wounaan, Kuna de Madugandi, and Wargandi reserves. Although there are two Kuna legislators in the Legislative Assembly, legislative districts have not been established in the other reserves. Locally, tribal chiefs govern each reserve; they meet in a general congress at regular intervals. Neither the Madugandi nor the Embera-Wounaan reserve has its own dedicated legislators, but each has a separate governor. The Electoral Tribunal continued the process of demarcating electoral districts within a new reserve created for the Ngobe-Bugle. Elections in 1999 allowed many Ngobe-Bugle to choose their own local representatives in these newly created electoral districts.

The law prohibits discrimination against any social, religious, or cultural group; however, naturalized citizens may not hold certain categories of elective office.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Human rights organizations, including both religious and secular groups, operated without government restrictions. These organizations carried out a full range of activities, including investigations and dissemination of their findings. Organizations generally had access to government officials while conducting investigations. In June the Government recognized a homosexual rights organization (see Section 2.b.). In June an IACHR delegation traveled to the country to assess the human rights situation (see Sections 1.c., 2.a., and 2.b.).

The office of Human Rights Ombudsman receives complaints from citizens regarding abuses or violations committed by public servants or government institutions, collects information, confronts accused public institutions or employees, and conducts studies to promote international human rights standards. Although the Ombudsman has no coercive authority beyond moral suasion, he can confront public institutions and employees with their misdeeds. During the year, the Ombudsman's Office received 951 complaints against the government. Of this number, 906 complaints were against public institutions, and 45 were against businesses operating under a Government concession. On March 13, the Legislative Assembly elected attorney Juan Antonio Tejada Espino to replace the country's first Ombudsman, Dr. Italo Antinori, for a term of 5 years. Beginning his term on September 1, the new Ombudsman played a key role in mediating the prison hunger strike at La Joyita (see Section 1.c.), in investigating allegations of over-radiation of 28 patients at the National Cancer Institute, and in addressing complaints from citizens living in the canal watershed area who are concerned about the potential for forced relocations.

On January 18, the President issued an executive decree that established the Panamanian Truth Commission to investigate killings and disappearances believed to have occurred under the 1968–89 military dictatorship (see Sections 1.a. and 1.b.). Its members are researching approximately 135 cases through public disclosure of information relating to the deaths and disappearances. The Commission also is collecting eyewitness testimonials, domestic and foreign government documents, and anonymous information to assist in the matter. In October the President extended the Commission's mandate to April 2002, when the Truth Commission is to present a written report of its findings to the President and Attorney General.

In early August and again in October, a team of forensic anthropologists from the United States accompanied by a dog trained to find human remains discovered human remains in several locations, including airport runways, jungles and swamps, in four provinces of the country.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits either special privileges or discrimination on the basis of race, birth status, social class, sex, religion, or political views. However, societal prejudices persist. Cases of discrimination are difficult to prove, and legal remedies for victims are complicated, time-consuming, and costly. There were some unconfirmed reports of killings of homosexual men.

Women.—Domestic violence against women continued to be a serious problem. The 1995 Family Code criminalized family violence (including psychological, physical, or sexual abuse) but convictions are rare unless a death occurs. In September the Code was revised to strengthen the penalties for different forms of domestic violence and include penalties for domestic sexual assault. One observer criticized the

new laws as being overly broad; and she said that the Ministry of Family, Women, and Children would not have the resources to cope now that so many persons would be able to initiate prosecution. The PTJ registered 673 cases of domestic violence during the year, compared with 610 during 2000. The PTJ also registered 395 cases of rape and 82 cases of attempted rape during the year, compared with 408 cases of rape and 102 cases of attempted rape in 2000. The Center for the Development of the Woman estimated that victims report as few as 20 percent of sexual assaults to judicial or law enforcement authorities. A widely acknowledged characteristic of rape is that it frequently is perpetrated by spouses or other family members. The Foundation for the Promotion of the Woman, among other women's advocacy groups and government agencies, operated programs to assist victims of abuse, and to educate women on their legal rights.

Trafficking in women for forced labor and sexual exploitation is a problem, and traffickers frequently bribe local law enforcement officials (see Sections 6.c. and 6.f.).

The Labor Code prohibits sexual harassment; however, it remains a problem. According to a report by the Latin American Committee for the Defense of Women, in 1995, the latest year statistics were available, about 70 percent of female government employees reported having endured sexual harassment in the workplace—42 percent by their immediate supervisors and 18 percent by more senior supervisors. Anecdotal evidence suggests that many women are propositioned for sexual favors at the time of their initial job interview.

The 1995 Family Code recognizes joint or common property in marriages. However, insufficient resources hampered government efforts to enforce the code's provisions effectively. According to Supreme Court Justice Mirtza de Aguilera, 80 family judges are required to handle this caseload; however, only 20 have been appointed owing to lack of resources.

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women are on average 20 percent lower and increase at a slower rate. There are credible reports of irregular hiring practices based upon age and "appearance." A 1998 law reiterates protections laid out in the Constitution and prohibits discrimination on the basis of sex.

The Ministry of Youth, Women, Children, and Family Affairs is largely a consolidation of departments previously operating in other government ministries, and its activities have not attracted a great deal of public attention. A number of private women's rights groups concentrate on disseminating information about women's rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

Children.—Minors (under 18 years of age) represent 48 percent of the population. Education is compulsory through the equivalent of 9th grade, but children do not always attend school due to traditional attitudes, financial considerations of the family, lack of transportation, and insufficient government resources to enforce the requirement. The problem is most extreme in the Darien province and among indigenous groups. The Government furnishes basic health care for children through local clinics run by the Ministry of Health. A central children's hospital in Panama City operates with government funds as well as private donations.

The Superior Tribunal for Minors and Superior Tribunal for Families are judicial authorities charged with overseeing the protection and care of minors. The Minister of Youth, Women, Children, and Family Affairs acts much like an ombudsman, and the office proposes and reviews laws and monitors government performance. Through September the PTJ registered 102 cases of child abuse, compared with 196 in 2000. Neglect of children is a problem. Malnutrition and inadequate medical care are generalized problems that are most severe among rural indigenous groups. Rural and urban child labor are problems (see Section 6.d.).

The inadequate resources and training available to the family courts has resulted in several controversial decisions, including one highly publicized case in which a child was returned to an abusive situation.

Juvenile courts continue to report a high incidence of juvenile delinquency in major urban areas. The authorities report a continued increase in such crimes as drug trafficking, armed robberies, kidnappings, car thefts, and murders that are attributed to juveniles. Youth participation in criminal gangs is an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps.

Persons with Disabilities.—The Ministry of Education is responsible for educating and training minors with disabilities, while the Ministry of Youth, Women, Children, and Family Affairs protects the rights of adults with disabilities. Children with disabilities traditionally have been separated from the general population; however, in February 2000, the Legislative Assembly passed a law that requires

schools to integrate children with special needs into the student body, and this law generally is enforced.

The Department of Labor is responsible for placing workers with disabilities in suitable jobs. Placement remains difficult despite a 1993 executive order granting tax incentives to firms that hire disabled employees. Persons with disabilities also tend to be paid less than employees without disabilities for performing the same job.

The 1998 municipal building code for Panama City requires that all new construction projects be accessible to persons with disabilities with fines from \$100 to \$500 for noncompliance. A 1999 national law with similar requirements for new construction projects generally is enforced. Awareness of disability issues has increased, and commercial establishments increasingly provide and enforce handicapped parking spaces. However, basic services such as handicapped-accessible sidewalks and bathrooms are largely unavailable.

In July the Electoral Tribunal began a voting program to allow persons with physical disabilities or illnesses that prevent them from traveling to polling places to vote from home, with reportedly positive results.

Indigenous People.—The Constitution protects the ethnic identity and native languages of indigenous people and requires the Government to provide bilingual literacy programs in indigenous communities. Indigenous people have legal rights and take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people number approximately 194,000 persons (8 percent of the population) and have the same political and legal rights as other citizens. The Government has passed legislation over the years setting aside indigenous reserves for the country's native groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. The Ministry of Government and Justice in Panama City maintains the low profile Office of Indigenous Policy. Federal law is the ultimate authority on indigenous reserves, but local groups are allowed considerable local autonomy (see Section 3). For example, the Government recognizes traditional indigenous marriage rites as the equivalent of a civil ceremony. Laws protect intellectual property rights of indigenous artwork and set up regulations for artisan fairs. Despite legal protection and formal equality, indigenous people generally endure relatively higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. Discrimination against indigenous people, although generally not overt, is widespread.

Although their population suffers from poverty and malnutrition, Kuna leaders have had the most success enforcing their territorial boundaries and maintaining their cultural integrity. A 190-acre Kuna Wargandi reserve was created in 2000. There are two Kuna legislators, and they have more financial resources than the other groups (see Section 3). Other indigenous groups have not succeeded in using their autonomy to preserve their culture or develop economic independence. Most live in extreme poverty and isolation. Illiteracy among indigenous groups is almost 50 percent, compared with 10 percent among the population as a whole.

Since indigenous populations infrequently master Spanish and are unfamiliar with the country's legal system, they often misunderstand their rights and fail to employ legal channels when threatened. The problem is exacerbated by government inattention to indigenous problems. For example, the Embera-Wounaan in the Darien have been moved out of their reserves in increasing numbers owing to encroachment by settlers, loggers, and Colombian immigrants. The Ngobe also are under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. Indigenous workers consistently do not receive the basic rights provided by the Labor Code, such as minimum wage, social security benefits, termination pay, and job security. Even when working in close proximity to each other, indigenous laborers in the country's sugar, coffee, and banana plantations work under worse conditions than their nonindigenous counterparts. Indigenous migrant workers are unlikely to be provided with housing or food, and their children are much more likely to work long hours of heavy farm labor than nonindigenous children (see Section 6.d.).

National/Racial/Ethnic Minorities.—The country is racially diverse, and minority groups generally have been integrated into mainstream society with overall success. However, discrimination against the country's newer immigrants, especially Chinese, often is overt. The ethnic Chinese community is estimated to be about 120,000 persons. Cultural differences and language difficulties hinder and may prevent many Chinese immigrants from fully integrating into mainstream society. In addition, Panamanians often resent Chinese immigrants for their perceived indifference toward the culture of their adopted country and their clannish behavior. Racial slurs directed at Asians are used openly among the general population, and substantial numbers of Panamanian-resident Chinese frequently are treated as second-class citizens. On the other hand, second and third generation Chinese are seen as dis-

tinct from recent immigrants, and generally are accepted in society. These established Chinese generally do not want to be associated with the recent arrivals from China.

In addition to Chinese immigrants, Middle Eastern and Indian residents also suffer from racially motivated discriminatory treatment. All three groups operate much of the country's retail trade, particularly in urban areas. Legal and illegal immigrants, especially Chinese, are accorded fewer legal protections than are citizens for their trade activities. A constitutional provision reserving retail trade for Panamanian citizens is not enforced in practice; however, immigrants legally cannot own their businesses and sometimes encounter bureaucratic difficulties in practicing their professions.

Racism against blacks occurs, although it generally is expressed in more subtle terms. Blacks are conspicuously absent from positions of political and economic power. The country's white elite successfully marginalizes citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector.

Antillean blacks, often identifiable by dress and speech pattern, are a particular target for racial slurs and poor treatment by citizens and by Spanish-speaking blacks. Their geographic clustering in the economically depressed province of Colon and poorer neighborhoods of Panama City heightens their isolation from mainstream society. Black Canal workers traditionally commanded significantly higher financial resources compared with blacks elsewhere in society, but many have retired or emigrated and there is some anecdotal evidence that the rest are being replaced by white personnel. Mainstream political elites generally are unconcerned by the economic problems of black populations and a concomitant rise in drug use, crime, and gang violence. Colon, the country's second largest city, suffers from a conspicuous lack of government services.

Racial discrimination against all ethnic groups is evident in the workplace. In general, light-skinned persons are represented disproportionately in management positions and jobs that require dealing with the public (such as bank tellers and receptionists).

Section 6. Worker Rights

a. The Right of Association.—Private sector workers have the right to form and join unions of their choice, subject to the union's registration by the Government. A 1995 labor code reform package significantly increased workers' ability to establish unions. It streamlined the accreditation and registration process for unions, and established the minimum size of unions at 40 workers. If the Government does not respond to an application within 15 days, the union automatically gains recognition and is accorded all rights and privileges under the law. The package also addressed a longstanding concern of the International Labor Organization (ILO) by allowing labor leaders to keep their union positions if fired from their jobs.

Approximately 10 percent of the total employed labor force is organized. There are over 250 active unions, grouped under 48 federations and 7 confederations representing approximately 80,000 members in the private sector. Neither the Government nor political parties outwardly control or finance unions; however, the Government and political parties do exercise political, ideological, or financial influence over some unions. The labor sector traditionally supports the PRD.

In 1999 the Supreme Court ruled that an article of the Labor Code that obligated private sector strikers to submit to binding arbitration after a given period was unconstitutional. There were some strikes and protests during the year, especially in the banana and construction industries. None of the strikes led to widespread violence.

The 1994 Civil Service Law permits most government workers to form public employee associations and federations and establishes their right to represent members in collective bargaining with their respective agencies. It also provides a small core of civil servants with the right to strike, bargain collectively, and evade summary dismissal, except for those in areas vital to public welfare and security, such as the police and health workers. However, the law has proven insufficient to protect the country's 150,000 public workers, because only a small percentage are members of the civil service and therefore enjoy job security. While the right to strike applies to some 10,000 civil servants, it does not apply to the approximately 140,000 other government workers. Public workers are not allowed to form unions. The ILO's Committee of Experts has observed for some years that the prohibition of public servants' associations is inconsistent with the country's obligations under ILO Convention 87, but no changes have been made.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its 10,000 employees, but does allow unions to organize and to bargain collectively.

Union organizations at every level may and do affiliate with international bodies.

b. The Right to Organize and Bargain Collectively.—The Labor Code provides most workers, including all private sector workers, with the right to organize and bargain collectively, and unions exercise it widely. The law protects union workers from antiunion discrimination and requires employers to reinstate workers fired for union activities. The Ministry of Labor has mechanisms to resolve complaints against antiunion employers. The Civil Service Law allows most public employees to organize and bargain collectively and grants some of them a limited right to strike; however, 130,000 public sector workers do not have the right to bargain collectively or to strike. The Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration.

Employers commonly hire temporary workers to circumvent onerous labor code requirements for permanent workers. Temporary workers are excluded from social security benefits, job security, and vacation time. Labor law requires companies to submit copies of all labor contracts for permanent workers to the Labor Ministry for review to ensure compliance and requires the Labor Ministry to conduct periodic inspections of the work force. The Labor Ministry may levy fines against companies not in compliance with the law. However, these measures have proven ineffective in practice. According to union sources, the practice of blank contracts is becoming more widespread.

Over the past 6 years, the Government has issued cabinet decrees restricting labor activity in export processing zones (EPZ's). Existing EPZ legislation provides for collective bargaining with "representatives of employees" but makes no specific mention of trade unions. It requires mandatory arbitration of disputes; and it allows for the participation of an unrepresentative worker delegate in the tripartite (government, labor, and industry) arbitration commission. A strike may be considered legal only after 36 workdays of conciliation are exhausted; if this requirement is not met, striking workers may be fined or fired. A 1998 ILO ruling noted that this regulation does not mention arbitration or specify procedures to resolve disputes in the courts, and that the Government should amend the EPZ labor regulations to conform with international norms; however, the Government has not made any changes in response to the ruling. Minimum wage provisions do not apply in the EPZ's.

c. Prohibition of Forced or Compulsory Labor.—The Labor Code prohibits forced or compulsory labor by adults and children; however, trafficking in women for forced labor and sexual exploitation is a problem (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Code prohibits the employment of children under 14 years of age with some exceptions, and also prohibits the employment of children under age 15 if the child has not completed primary school. However, a Government report published in 2000 estimated that 27,000 children between the ages of 12 and 14 work. Children under age 16 legally cannot work overtime, and those under age 18 cannot work at night. Children between the ages of 12 and 15 may perform light farm or domestic work, with the authorization of the Labor Ministry, as long as it does not interfere with their schooling. The Labor Code provides that children between the ages of 14 and 16 may work 6-hour a day shifts that do not exceed 36 hours a week. The Ministry of Labor enforces these provisions in response to complaints and may order the termination of unauthorized employment. The Government acknowledges that it is unable to enforce some child labor provisions in rural areas, owing to insufficient staff.

The ILO Permanent Committee Against Child Labor asserts that 11 percent of all children between the ages of 10 and 17 are working or actively are seeking employment. Most of these children, both rural and urban, are believed to be working at their parent's insistence. Some of these children may be providing a substantial part of their family income.

Child labor violations occur most frequently in rural areas, during the harvest of sugar cane, coffee, bananas, and tomatoes. Farm owners usually pay according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work. In many small rural communities, the entire able-bodied population participates in a harvest, and parents are not willing to leave their children behind unattended. Many children also are involved extensively in subsistence agriculture producing coffee and sugar; they work with their families or are employed by independent plantations.

The problem of child labor in agricultural areas appears to fall most heavily on indigenous families, who often are forced to migrate out of their isolated reserves in search of paid work (see Section 5). These frequent migrations not only interrupt schooling, but also leave the family vulnerable to sometimes unscrupulous contrac-

tors. The Government claims that it is unable to enforce child labor provisions in rural areas due to insufficient staff, such as in the coffee and banana plantations near the border with Costa Rica, where government resources are especially scarce. However, the lack of enforcement also can be attributed to widely held beliefs that indigenous people are accustomed to poverty and hard work. In September the Minister of Labor suggested that child labor in the sugar cane fields was a "cultural tradition among the indigenous" and that children cutting sugar cane received more food during harvest time; these comments led to a series of critical newspaper editorials. Children in banana plantations also face difficult conditions (see Section 6.e.).

Urban supermarkets employ an estimated 1,500 children who bag groceries for tips. Despite the requirements of the Labor Code, some of the children are as young as age 9, and many of them work late hours. Some supermarket managers claim that the children actually are not employed by their firm, despite the fact that "baggers" conform to schedules, wear uniforms, and must comply with company codes of conduct. The Government has demonstrated little interest in reducing the general problem of urban child labor, and has been unwilling to challenge the larger supermarket chains, where large numbers of children work. Urban child labor problems also include children working as street vendors or performers, washing cars, and running errands for businesses or local criminal groups.

The law prohibits forced or bonded labor by children, and the Government generally enforces this provision (see Section 6.c.).

e. Acceptable Conditions of Work.—The Labor Code establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage ranges from \$0.80 per hour to \$1.50 per hour, depending on the region and sector. This wage is not sufficient to provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earn the minimum wage or more. However, because unemployment is relatively high at an estimated 13.3 percent, an estimated 39 percent of the population work in the large informal sector and earns far below the minimum wage. This is particularly the case in most rural areas, where unskilled laborers earn \$3 to \$6 per day, without benefits; the Government does not enforce labor laws in most rural areas. Despite ILO protest, public sector workers do not fall under the Labor Code and do not always receive the minimum wage.

The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly.

The Ministry of Labor is responsible for enforcing health and safety standards and generally does so. The standards are fairly broad and generally emphasize safety over long-term health hazards, according to organized labor sources. Inspectors from both the Labor Ministry and the occupational health section in the Social Security Administration conduct periodic inspections of hazardous employment sites and respond to complaints. Both agencies suffer from budget constraints and experience difficulty attracting qualified personnel and resources. Construction workers and their employers are notoriously lax about conforming to basic safety measures, usually resulting in several deaths a year. In rural areas, the most severe lack of oversight in basic safety measures occurs in the banana industry, where poisoning by chemical agents is a recurrent issue. Workers have complained of sterility and more recently of adverse skin conditions as a result of exposure to the chemicals. In several plantations, indigenous workers were not provided with shelters, sanitary or cooking facilities, or fresh water; they also did not have machetes or gloves for their work. Complaints of health problems also continued in the cement and milling industries.

The law protects from dismissal workers who file requests for health and safety inspections. Workers also have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They generally are not allowed to do so if the threat is not immediate, but may request a health and safety inspection to determine the extent and nature of the hazard.

f. Trafficking in Persons.—The Penal Code prohibits trafficking in women and children; however, trafficking remains a problem. The country is primarily a transit point for aliens seeking to reach the United States, some of whom are trafficked into indentured servitude. There also were reports of women being trafficked to Israel for purposes of prostitution. The country is also a destination for women and girls trafficked from Colombia and the Dominican Republic. The Code provides for prison sentences of 2 to 4 years for the promotion or facilitation of the entry to or exit from the country of a person for the purposes of prostitution. In some circumstances, the penalty is increased to 6 years. Prosecutions are rare. The authorities held several persons in custody for trafficking; they remained in prison awaiting trial at year's

end. Corruption, legal technicalities, and lack of resources contribute to the Government's inability to combat the problem fully. Traffickers frequently bribe or evade local law enforcement officials.

Trafficking in women for sexual purposes occurs in the country, but the extent of the practice is unknown.

An estimated 30,000 aliens transit the country annually, generally posing as tourists. The majority of aliens transiting Panama originate in Ecuador and Peru, but a significant and increasing number come from India and China. Their travel is facilitated by a network of alien smugglers, travel agents, hotels, and safe houses. Anecdotal evidence indicates that illegal aliens transiting through the country are subject to frequent hardship. They commonly are deprived of adequate food and shelter. Chinese aliens are particularly vulnerable to poor treatment, and ultimately those trafficked for the purpose of forced labor are coerced into working off their debt, which may be as high as \$30,000, as indentured servants. The Government does not conduct educational campaigns to warn of the dangers of trafficking, and there are no programs to aid victims.

PARAGUAY

Paraguay is a constitutional republic with three branches of government. The President is the Head of Government and Head of State; he cannot succeed himself. Colorado Party Senator Luis Gonzalez Macchi assumed the presidency in March 1999; in August 2000, voters elected Julio Cesar Franco of the Liberal Party to be Vice President. The bicameral Congress is made up of a 45-member Senate and an 80-member Chamber of Deputies. The Colorado Party, the dominant political party, holds a small majority in both houses of Congress; however, factional differences within the Party result in shifting alliances depending on the issue. In August the lower house voted down impeachment charges based on poor performance of duties and corruption against the President and Vice President. The Constitution provides for an independent judiciary; however, although the Supreme Court continued to undertake judicial reforms, the courts remain inefficient and subject to corruption and political pressure.

The military generally no longer plays an overt role in politics; however, members of two army units and a group of National Police officers participated in an attempted coup in May 2000. The National Police force has responsibility for maintaining internal security and public order, and it reports to the Ministry of the Interior. The civilian authorities generally maintain effective control of the security forces. Members of the security forces committed some human rights abuses.

The country has a population of approximately 5.6 million and a market economy with a large state presence and a large informal sector. The formal economy has been in a recession for the past 5 years. In 2000 economic growth declined by 0.4 percent in real terms. According to preliminary figures for 2000, gross domestic product (GDP) was \$7.7 billion (35.4 trillion guaranies). The GDP per capita (\$1,506) has fallen steadily and is lower in real terms than it was 10 years ago. An estimated 32 percent of the population is employed in agriculture, which provides 30 percent of the GDP. Hydroelectric power, agricultural products, and cattle were the most important export items. The informal economy, estimated at 50 percent of the value of the formal sector, has shrunk considerably in the last few years and suffered a severe blow with the implementation of stricter border controls by the Brazilian Government on the important crossroads of Ciudad del Este. Wealth continues to be concentrated in a small upper class, with both urban and rural areas supporting a large subsistence sector.

The Government generally respected the human rights of its citizens in most areas; however, serious problems continued in some areas. The police and military committed some extrajudicial killings. Incidents of torture and abuse of convicted prisoners and other detainees continued. Mistreatment of conscripts and poor prison conditions were problems. Other problems include arbitrary arrests and detention, lengthy pretrial detention, corruption and inefficiency in the judiciary, and infringements on citizens' privacy rights. The Government established an Inter-Institutional Commission to review human rights matters, particularly with regards to underage military recruits. The recruitment and conscription of underage minors continued, although a court convicted one military officer of enlisting minors. Police used force against nonviolent demonstrators. Violence and discrimination against women, abuse of children, and discrimination against persons with disabilities and indigenous people are problems. Worker rights are not adequately protected, and child labor exists.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Unlawful Deprivation of Life.—The police and military were responsible for over a dozen extrajudicial killings.

In January police in Capiata killed four men who were fleeing after they allegedly robbed a supermarket. One policeman was injured during the incident. There was no information regarding any investigation by year's end.

In November eight police officers allegedly shot Miguel Angel Casco Valdovinos four times in the head while trying to elicit a confession from him. In December the officers were arrested and charged with Valdovinos's murder.

In July guards shot and killed 18-year-old inmate Benito Augusto Adorno during the riot and fire that resulted in the closure of the Panchito Lopez juvenile prison (see Section 1.c.). At year's end, prosecutors were investigating the incident to determine whether the killing was carried out in self-defense.

At least 25 prisoners died during the year due to violence and a fire in 1 prison (see Section 1.c.). In April a 14-year-old inmate at the Neuropsychiatric Hospital died amid allegations of neglect and mistreatment; there was no investigation (see Section 5).

At least three soldiers under the age of 20 died while in military service during the year. In April conscript Hector Adan Maciel died from a gunshot wound. Military authorities investigated and concluded that the shooting was an accidental homicide caused by a fellow soldier, who was punished in military court. In May Gustavo Baez was killed in a shooting that authorities again concluded was accidental. In November Mariano Riveros was killed at the police station where he was posted; the authorities still were investigating the case at year's end.

In May a court convicted four police officers and sentenced them to 4 years and 5 months imprisonment for using excessive force in the fatal shooting of a suspected thief in March 2000.

No further information was available regarding the disposition of extrajudicial killings from previous years, including cases of 3 persons killed during a January 2000 land eviction and 10 men killed in an armored vehicle robbery in Itakyry.

As of year's end, prosecutors still were investigating the September 2000 death of juvenile military recruit Pedro Centurion.

In August a prosecutor filed discovery motions in the continuing investigation of Jose "Coco" Villar, whom police killed in 1999. The case was pending in the prosecutor's office as of year's end.

There were several developments in the March 1999 killing of Vice President Luis Maria Argana and seven antigovernment protesters during the year (see Section 1.d.). Former army commander Lino Oviedo faces charges stemming from his alleged involvement in these killings. The Government of Brazil denied the petition by the Government of Paraguay to extradite Oviedo. At year's end, Oviedo remained in Brazil awaiting a final determination on his status. Oviedo also faces charges for his alleged involvement in a failed coup attempt in May 2000 (see Section 3).

In November a criminal court convicted five men of murder in conjunction with violence in the killing of the Vice President and seven protesters. Three others convicted in the murder of Vice President Argana were serving prison sentences at year's end.

In November a criminal court convicted Camillo Almada, Alberto Cantreo, and Sabino Montando of the 1975 murder and torture of Octavio Ruben Gonzalez Acosta. Former military dictator Alfredo Stroessner was named as a defendant in the action.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture as well as cruel, inhuman, or degrading punishment or treatment; however, torture (primarily beatings) and brutal and degrading treatment of convicted prisoners and other detainees continued. The Paraguay Human Rights Coordinating Board (CODEHUPY)—a group of 32 (nongovernmental organizations (NGO's), civic organizations, and trade unions—reported several cases of police torture and other abusive treatment of persons, including women and children, designed to extract confessions, punish escape attempts, or intimidate detainees. The Attorney General's office and the Committee of Churches compiled numerous examples of police abuse.

In May Antonio Caceres Caniza, a police officer, alleged that nine transportation police officers handcuffed and beat him after he refused to pay them a bribe. A prosecutor filed charges against the officers.

CODEHUPY reported a complaint alleging that in March police in San Estanislao tortured a suspect, whom they had arrested in a raid, during interrogation. In Sep-

tember 15-year-old Julio Cesar Medina alleged that he was beaten by Asuncion police who arrested him. He was arrested based on an anonymous tip that described a robbery suspect as a 25-year-old man.

In June prosecutors opened an investigation into whether police officers beat an off-duty police official in San Juan Bautista, Misiones.

In May 2000, during the state of exception imposed after the aborted coup attempt, several of those arrested reported being tortured during their detention (see Sections 1.d. and 3). Some of these persons reported that former Interior Minister Walter Bower witnessed and encouraged the beatings of suspects in three unrelated cases. In June prosecutors filed charges against Basilio Pavon and Osvaldo Vera, two police officers, alleging that on Bower's orders they tortured Alfredo Caceres and Jorge Lopez in the aftermath of the coup attempt.

Press reports also connected Bower to the torture of eight peasants in Concepcion in March 2000; police reportedly beat them in Bower's presence after they were arrested for illegally cutting down trees. In October 2000, Bower was removed as Minister of the Interior. In April the Chamber of Deputies revoked Bower's immunity as a member of Congress, and in August prosecutors completed their investigation of these incidents and charged Bower with torture and other crimes. In December Saul Lenardo Franco filed a complaint alleging that Bower and three police officers had tortured him following the failed coup attempt. Legal action against Bower was pending at year's end.

Police used force to disperse protesters on several occasions, sometimes seriously injuring civilians (see Section 2.b.).

There were several allegations of mistreatment of military recruits by noncommissioned and commissioned officers. Recruits commonly charged that the military does not give them enough to eat and forces them to hunt wild animals or steal cattle for food. Many recruits have claimed that they were tortured or beaten while fulfilling their mandatory service obligations. For example, in June a judge found that soldier Arnaldo Cabanas suffered mental and physical injuries after being jailed for 9 months in a military prison; he was discharged from military service. There is no information on any charges against those who caused Cabanas's injuries.

In August military leaders signed an agreement with the Inter-American Institute of Human Rights agreeing to respect human rights. Under this agreement, the armed forces formally recognized the applicability of human rights principles within its ranks. This was in addition to a nationwide agreement signed in October 2000 by the Foreign Ministry with the institute.

The congressional and other delegations that visited the barracks during the year did not report any cases of mistreatment or torture.

In June a judge filed a petition to extradite former military dictator Alfredo Stroessner from Brazil, where he has been in self-imposed exile since he was deposed in 1989. The Government believes that there are still several cases of torture and abuses pending from the Stroessner regime (1954-89). In September the Court of Appeals upheld a 13-year prison sentence against General Ramon Duarte Vera for torture committed during the Stroessner regime. The court held that General Duarte could be convicted for crimes committed before the 1992 Constitution was adopted.

Prison facilities are deficient and prison conditions are extremely poor. Overcrowding, unsanitary living conditions, and mistreatment are the most serious problems affecting all prisoners. Tacumbu prison, the largest in Asuncion, was built to hold 800 inmates but houses over 1,500. Other regional prisons generally hold about three times more inmates than originally planned. UNICEF reported that conditions were substandard in other facilities around the country, especially in the prison in Coronel Oviedo. In December a fire and riot at the Alto Parana Regional Penitentiary in Ciudad del Este left 24 inmates dead and over 200 injured. Security is a problem in the prison system. For example, there are approximately 120 guards for over 1,500 prisoners at Tacumbu prison.

The Congressional Human Rights Commission has criticized the prisons for their poor nutritional standards. Prisons generally serve one meal a day, and prisoners seldom get vegetables, fruit, or a meat protein source, unless they have individual means to purchase them. Prisons have separate accommodations for well-to-do prisoners, which ensure that those with sufficient means receive far better treatment than other prisoners. Pretrial detainees are not held separately from convicted prisoners.

At the Asuncion women's prison, Buen Pastor, there have been several reported rapes of prisoners by their guards, although laws governing prisons forbid male guards in the women's prisons. Conditions in the women's prison are better than at Tacumbu, with less overcrowding. A small number of women are housed in predominantly male facilities, where they are segregated from the male population.

In April Amnesty International issued a report criticizing the conditions in the Panchito Lopez juvenile detention facility in Asuncion, citing overcrowding and substandard conditions. As of July, the prison, designed for 160 youths, housed 248 inmates. According to Amnesty International, the cells were overcrowded, overheated, and filthy, with few toilet or washing facilities. Amnesty International said that in January, 193 of the 201 prisoners were in pretrial detention; only 8 inmates had been convicted and sentenced. Panchito Lopez housed juveniles from all over the country who were awaiting trial. In its report, Amnesty International notes that prison authorities allegedly retaliated against inmates who met with Amnesty International during its investigation, although the prison director denies this. The UNICEF noted that inmates at Panchito Lopez were kept in isolation cells, although this practice is not consistent with international standards.

Amnesty International reported in April that five youths (Jorge Herebia, Rafael Pereira, Oscar Acuna, Die Acosta, and Jimmy Orlando Dos Santos) detained in the Panchito Lopez Juvenile Center were tortured and mistreated. In a September report, Amnesty stated that youths were kicked, beaten, suspended upside down, had plastic bags put over their heads, beaten on the back with a hammer, and had their feet scalded. Some children also reported being denied food, drink, or access to toilets, sometimes for several days.

With only nine guards on duty at a time, Panchito Lopez's inmates frequently set fires and caused other disturbances. In February a fire injured nine detainees, and in July a riot-related fire destroyed the institution. During the July incident, guards shot and killed one inmate (see Section 1.a.). Amnesty International expressed concern when 146 of the juvenile inmates were transferred to the maximum-security prison in Emboscada, Cordillera. While the juveniles are segregated from the adult population, the Emboscada facility, which was built as a military barracks about 1903, is extremely overcrowded. In September another inmate killed one of the juveniles transferred from Panchito Lopez. In September Richard Daniel Martinez, an 18-year-old inmate at the Emboscada maximum-security prison, was killed by another inmate; both youths had been transferred to the adult facility after the closure of the Panchito Lopez facility. During temporary detention at the adult Emboscada facility, other juveniles raped at least two minors. Other juveniles were transferred to prisons nationwide. The authorities planned to transfer all juvenile detainees to new facility for juveniles in Itagua in September; however, at year's end, the facility was not complete. This facility's capacity is not sufficient to house the existing population of juvenile prisoners; the Justice and Labor Ministry were seeking additional space at year's end.

In December juvenile inmates at the Itagua youth detention center rioted and set fires. Official sources acknowledge that at least 27 inmates escaped, and unofficial estimates were as high as 70.

The Government permits independent monitoring of prison conditions by human rights organizations. Amnesty International and UNICEF, along with government officials and diplomatic representatives, have been granted access to prisons on announced and unannounced visits.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention are persistent problems. The Constitution prohibits detention without an arrest warrant signed by a judge and stipulates that any person arrested must appear before a judge within 24 hours to make a statement. The police may arrest persons without a warrant if they catch them in the act of committing a crime, but they must notify a prosecutor within 6 hours. In practice the authorities do not always comply with these provisions.

In August the armed forces announced a campaign to stop arbitrarily young men in the streets to see if they had complied with their military service obligations; however, within a week, the armed forces cancelled the campaign after criticism from civic and human rights groups and inquires from Congress and local governments. Pretrial detention remains a serious problem; an estimated 75 percent of persons in prison were held pending trial, many for months or years after their arrest. While the law encourages speedy trials, the Constitution permits detention without trial until the accused completes the minimum sentence for the alleged crime, which often occurs in practice. Judges have the discretion to permit "substitute measures," such as house arrest, in place of bail for most crimes. Judges frequently set relatively high bail, and many accused persons are unable to post bond. The Supreme Court and many criminal court judges also make quarterly visits to the prisons to identify and release improperly detained individuals.

The authorities arrested over 45 persons in connection with the 1999 assassination of Vice President Argana and the killing of student protesters (see Section 1.a.). Many of those arrested were well-known political figures, including legislators allied with the former Government. There was little evidence presented to support the

charges against most of them, and most of the accused were held without bail, leading some observers to question whether due process had been observed. According to the Attorney General's office, at least 10 of those detained remained in jail awaiting trial at year's end, and approximately 5 prominent suspects, who had been remanded to house arrest or other alternative detention, had not yet been cleared of the charges against them; therefore, they remained in an uncertain legal status. The Government restricts the movement of persons allegedly suspected of plotting the coup (see Section 2.d.).

The Constitution expressly prohibits exile, and the Government does not use it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, judges often are pressured by politicians and other interested parties. There are credible reports of political pressure affecting judicial decisions; however, the judiciary is not allied with any one political group.

The nine-member Supreme Court appoints lower court judges and magistrates, based upon recommendations by the magistrate's council. There are five types of appellate tribunals: Civil and commercial, criminal, labor, administrative, and juvenile. Minor courts and justices of the peace fall within four functional areas: Civil and commercial, criminal, labor, and juvenile. The military has its own judicial system.

The judicial system remains relatively inefficient and has insufficient resources. The March 2000 Penal and Criminal Procedures Code, provides the legal basis for the protection of fundamental human rights. The new Code introduced expedited oral proceedings, and requires prosecutors to bring charges against accused persons within 180 days. Defendants enjoy a presumption of innocence, and defendants and the prosecutor may present the written testimony of witnesses as well as other evidence. The judge alone determines guilt or innocence and decides punishment. A convicted defendant may appeal his or her sentence to an appeals court, and the Supreme Court has jurisdiction over constitutional questions.

The new system has reduced the backlog of pending criminal cases: 95 percent of those cases active in 1999 had been resolved by March. The average length of a criminal proceeding has dropped by 75 percent, resulting in a reduction of the length of pretrial detention; however, the average time from arrest to trial is still approximately 240 days. The long trial period highlights the judiciary's struggle with insufficient resources.

The Constitution stipulates that all defendants have the right to an attorney, at public expense if necessary, but this right often is not respected in practice. Many destitute suspects receive little legal assistance, and few have access to an attorney sufficiently in advance of the trial to prepare a defense. For example, in Asuncion there are only 26 public defenders available to assist the indigent, and only 102 nationwide, although 25 new positions are planned. In practice public defenders lack the resources to perform their jobs adequately.

There were no reports of political prisoners. Of the more than 45 supporters of former General Lino Oviedo that were arrested after the 1999 killings of Vice President Argana and the student protesters, 10 remained in jail awaiting trial at year's end (see Sections 1.a. and 1.d.). They assert that they are being detained because of their political opposition to President Gonzalez Macchi.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides that the police may not enter private homes except to prevent a crime in progress or when the police possess a judicial warrant; however, at times the Government infringed on citizens' privacy rights. While the Government and its security forces generally did not interfere in the private lives of citizens, human rights activists claimed that local officials and police officers abuse their authority by entering homes or businesses without warrants and harassing private citizens. There were allegations that the Government occasionally spied on individuals and monitored communications for political and security reasons.

During the year, the authorities took steps to reduce the illegal conscription of minors, the mistreatment of recruits, and the large number of unexplained deaths of recruits (see Sections 1.a. and 1.c.). In March the Government established an Inter-Institutional Committee, including judges, attorneys, legislators, and NGO representatives, that conducted visits around the country during the year to inspect conscripts' records and identify any minor soldiers. The Committee has the power to investigate and report on abuses and conditions. The Government is also working to establish review procedures for military recruits to prevent future enlistment of minors. The Government has ordered that all military officers responsible for recruiting ensure that all conscripts meet the legally minimum mandated requirement age of 18 for military service. In May a military court sentenced Colonel Julio Cesar Cardozo to 1 year in prison for not preventing the conscription of over 90 underage soldiers. Cardozo was found to have failed to take steps necessary to ensure that

the minors were not enlisted based on falsified birth certificates. The armed forces no longer allow 17-year-olds to enlist with parental permission. However, there were still some reported violations, including allegations that military recruiters forced underage youths to join units and provided them with false birth certificates and other documentation to show them to be of age. In May the Committee reported that seven soldiers ranging from age 14 to 17 had been enlisted without any documents at all; the soldiers were discharged and returned to their families. In August the Committee discovered a 17-year-old who had been enlisted with a falsified birth certificate.

At least three soldiers under the age of 20 died while in military service during the year (see Section 1.a.). Since 1989, 111 underage conscripts have died while in military service. There were several allegations of mistreatment of military recruits by noncommissioned and commissioned officers (see Section 1.c.). In June the Coalition to Stop the Use of Child Soldiers reported that the average age of recruits is 16.4 years and seven underage soldiers have died. Amnesty International issued a report in April that noted that children as young as 12 constitute a large portion of conscripts, and that physical and psychological punishments of these conscripts continue. The report also cited reports of forcible recruitment of children and falsification of documents proving their age.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of expression and the press, and the Government generally respected these rights in practice.

The print and electronic media are independently owned; however, some media outlets are tied closely to political parties, factions of those parties, or business entities. The media commonly criticized the Government and freely discussed opposition viewpoints.

In September the Supreme Court struck down the operative provisions of the Administrative Transparency Law, enacted in July, as an unconstitutional infringement on access to information. The Inter-American Press Association (IAPA) criticized the law in July, stating that the law not only restricted citizens' access to information, but also gagged the press. The law, commonly known as the "Ley Mordaza" ("gag law"), included exemptions that restricted the public's access to official documents. At year's end, Congress was considering new provisions that would satisfy the constitutional issues raised by the Supreme Court.

In June the Committee to Protect Journalists (CPJ) petitioned President Gonzalez Macchi to intervene in the case of journalist Sever del Puerto. Del Puerto and his family received death threats, which may have been a result of his investigative stories on the possible involvement of several judges and the former interior minister Walter Bower in a robbery of an armored truck from the Asuncion airport. The police provided special protection for del Puerto and his family.

In October the IAPA released a report on violations of press freedom, including the harassment of journalists and media outlets. The report indicates that some politicians have sued or harassed journalists or news agencies that report on corruption or a politician's ties to illegal activities. In one case, on September 21, a judge in Concepcion convicted "ABC Color" reporter Telmo Tomas Ibanez of libel and slander and fined him \$4,130 (19 million guaranies). Ibanez was convicted after he published a story detailing the allegedly corrupt behavior of local officials. The case raised due process concerns amid allegations that the presiding judge refused to recuse himself despite conflicts of interest with both the plaintiffs and the accused. In November an appeals court overturned Ibanez's conviction on slander and libel charges. The trial court subsequently dismissed libel charges against other local officials who had made statements about their colleagues' alleged corruption.

In October the Supreme Court upheld an appellate decision striking the defamation conviction of reporter Pedro Benitez Aldama for his story on a real estate corruption scandal involving government employees. The decision held that the trial judge improperly had failed to consider evidence favorable to Benitez.

In May 2000, military authorities closed Radio 970 and Radio Asuncion after the failed coup attempt (see Section 3). The stations resumed operations during the year. A cease and desist order against "ABC Color" reporter Hugo Ruiz Olazar has been lifted.

There were no further developments in the December 2000 beating of journalist Maury Konig after he photographed a police station in Alto Parana department.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of all citizens to peaceful assembly, and the Government generally respects this right in practice; however, in some cases police used violent force against non-violent assemblies.

The law restricts demonstrations in Asuncion to certain times and places, and specifically prohibits meetings or demonstrations in front of the presidential palace and outside military or police barracks. Some groups have opposed these restrictions. The law also requires that organizers notify the Asuncion police 24 hours before any rally downtown. The police may ban a protest but must provide written notification of the ban within 12 hours of receipt of the organizers' request. The law permits a police ban only if another party already has given notice of plans for a similar rally at the same place and time. This law does not apply to religious processions. The Constitution prohibits closing roads and bridges as a form of protest; however, protesters closed roads on several occasions.

In February an estimated 4,000 farmers in Alto Parana and Itapua protested rising utility and fuel prices, by blocking the highway between Encarnacion and Ciudad del Este with tractors and other farm equipment. The protestors organizer, Agustin Konrad of the Agricultural Association of Paraguay, met with the Ministers of Interior, Treasury, Public Works, and Agriculture, who said that they would discuss the farmer's demands once the protest was lifted.

Between March and September, opposition political factions and populist groups peaceably demonstrated against President Gonzalez Macchi and Vice President Franco. Labor unions continued to demonstrate demanding better working conditions, industrialists sponsored marches demanding economic reform, and peasant organizations closed roads on several occasions to bring attention to the needs of the rural population.

In March police fired tear gas canisters and rubber bullets on a group of teachers demanding payment of overdue wages in the town of J. Eulogio Estigarribia. Five teachers were injured, one seriously.

Also in March, dozens of farmers protesting against a local official in Curuguaty were injured after police broke up their demonstration. Police intervened after the protesters set fire to at least one car and tried to charge the city hall.

In July citizens in Ayolas, Misiones, alleged that local police violently dispersed peasant and labor marches with the consent of the local prosecutor.

From August through October, police injured a number of persons during protests against the mayor of San Joaquin.

In September police injured 50 protesters while breaking up a demonstration on the Friendship Bridge in Ciudad del Este. The demonstrators had blocked the bridge for several days and rejected Government offers of negotiation before the police moved in.

In November police used rubber bullets and clubs to disperse a group of medical professionals who were protesting cuts in hospital funding in front of the Senate building. According to press reports, three officers beat Guillermo Augero, the head of the Teachers Association of the country's Medical School. After an internal investigation, police officials disciplined officers implicated in the attack.

The Constitution provides for the right of all citizens to free association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Government requires that all religious groups be registered with the Ministry of Education and Culture, but imposes no controls on these groups.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—All citizens may travel within the country with virtually no restrictions, and there generally are no restrictions on foreign travel or emigration. However, the persons allegedly involved with plotting the 2000 coup are not allowed to leave the country and must sign in with the Justice Ministry once a month (see Section 3). The Constitution prohibits closing roads and bridges as a form of protest; however, protesters closed roads on several occasions (see Section 2.b.).

The Constitution provides for the granting of asylum; however, there are no established provisions to grant asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Immigration Department determines each request on a case-by-case basis in consultation with the Ministries of Foreign Relations and Interior and the nongovernmental Committee of Churches. The issue of the provision of first asylum has never arisen.

There were no reports of the forced return of persons to countries where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right and ability to change their government through democratic means. Multiple parties and candidates contest the country's leadership positions. Four parties are represented in the Congress. The Constitution and the Electoral Code mandate general elections every 5 years, voting by secret ballot, and universal suffrage. Debate in Congress is free and frank. The Congress often rejects the executive branch's proposals.

International observers from the Organization of American States (OAS) characterized the August 2000 vice-presidential elections as free and fair. This was the first national executive election won by the opposition in over 50 years. Gubernatorial elections were held in April. In November municipal elections were held nationwide. There were no reports of irregularities, although the elections were marked by the lowest voter turnout (50 percent) since the end of the Stroessner dictatorship in 1989.

In May 2000, members of two army units and a group of National Police officers loyal to former General Lino Oviedo attempted to overthrow President Gonzalez Macchi. The coup attempt lasted less than 1 day, and the majority of the military remained loyal to the Government. The authorities arrested over 45 persons in connection with this event, a number of whom remained in detention at year's end; the Government also restricts the movements of those suspected of plotting the coup (see Sections 1.d., 1.e., and 2.d.). In November a court acquitted Congressman Conrado Papallardo of conspiracy charges arising from his alleged involvement in the coup attempt.

There are no legal impediments to women's participation in government and politics; however, in practice the percentage of women in government and politics does not correspond to their percentage of the population. There are 10 women in Congress (7 of 45 senators and 3 of 80 national deputies), and there is 1 woman in the Cabinet. The new Electoral Code requires that 20 percent of each party's candidates in their internal primaries for elective office be women. Although women serve as judges and prosecutors, none are on the Supreme Court.

Members of indigenous groups are entitled to vote, and the percentage of indigenous people who exercised this right has grown significantly in recent years; however, in practice the percentage of members of indigenous groups in government and politics does not correspond to their percentage of the population. The inhabitants of some indigenous communities report that they were threatened and prohibited from fully exercising their political rights.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Human rights groups include the Committee of Churches (an interdenominational group that monitors human rights, investigates refugee claims, and provides legal assistance), Tekojoja (a group dedicated to the protection of children's rights), and SERPAJ (a group that defends conscientious objectors and provides legal assistance to those with grievances arising from military service). CODEHUPY publishes an annual report on human rights, which was released on December 10. The report called for action against Alfredo Stroessner and Lino Oviedo for their roles in past political abuses. It also cited problems in the penitentiary system, the use of underage soldiers in the military, and the failure to adopt and enforce human rights laws. The Government did not restrict the activities of any human rights groups or advocates; however, it has a mixed record in cooperating with or responding to recommendations from such groups. Amnesty International visited the country in April to meet with government representatives on a range of human rights concerns; the representatives conducted a seminar on alternatives to juvenile incarceration, and inspected prisons and juvenile detention centers.

In October the Government named Manuel Paez Monges as its first human rights ombudsman (Defensor del Pueblo). The office had not received a budget from the Government at year's end; however, Monges had begun to review allegations of human rights violations from citizens.

The Director General of Human Rights, located in the Ministry of Justice and Labor, chairs the National Commission on Human Rights. The Commission sponsors seminars to promote human rights awareness. The Director General's office has access to the congressional, executive, and judicial authorities. It does not have subpoena or prosecutorial power, but the commission may forward information concerning human rights abuses to the Attorney General for action. It also serves as a clearinghouse for information on human rights and has trained thousands of educators in human rights law.

In 2000 the Ministry of Foreign Affairs established an Office of Human Rights. Although the office does not have an independent budget, the Director of Human Rights has participated in inspections and investigations of human rights abuses, particularly in the military and prison sectors.

The office of the Attorney General's Special Adviser on Human Rights has been extremely active in pursuing justice against human rights abusers from the Stroessner regime. Although the position has little real authority, the adviser is a strong spokesman for the human rights community and the rights of the disenfranchised and uses his position to identify and publicize human rights abuses by the Government. During the year, the Special Adviser received approximately 150 complaints regarding alleged human rights violations and sponsored several conferences on different human rights themes.

In August 2000, the Supreme Court established an office to oversee the conduct and prosecution of human rights cases.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and other laws prohibit discrimination on race, sex, religion, disability, language, or social status; however, certain groups, such as indigenous people, faced significant discrimination in practice.

Women.—The most pervasive violations of women's rights involved sexual and domestic abuse, which are underreported. Spousal abuse is common. Although the Penal Code criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal, and then it is punishable only by a fine. Thousands of women are treated annually for injuries sustained in violent domestic altercations. CODEHUPY reports, according to a government survey, that from January to August 1 woman was killed every 12 days by a family member or other acquaintance. Between January and August, the Secretariat of Women's Affairs registered 533 cases of violence against women, a 25 percent increase over the same period in 2000. According to these surveys, between January and August 2000, 63 percent of the cases of violence against women were rapes.

According to women's rights activists, official complaints rarely are filed or they are withdrawn soon after filing due to spousal reconciliation or family pressure. In addition, the courts allow for mediation of some family violence cases, which is not provided for by the law. There are no specialized police units to handle complaints involving rape. The Secretariat of Women's Affairs chairs a national committee, made up of other government agencies and NGO's, that developed a national plan to prevent and punish violence against women. Under the plan, an office of care and orientation receives reports on violence against women and coordinates responses with the National Police, primary health care units, the Attorney General's office, and NGO's. However, in practice these services are available only in Asuncion, and women living elsewhere in the country rarely benefit from them. The Secretariat also conducts training courses for the police, health care workers, prosecutors, and others.

The Women's November 25th Collective, an NGO, operates a reception center where female victims of violence can receive legal, psychological, and educational assistance. No shelters for battered and abused women are available outside the capital of Asuncion. Most imprisoned women reportedly were detained for assault, including murder, committed following domestic violence.

The law prohibits the sexual exploitation of women, but the authorities do not enforce the prohibitions effectively. Prostitution by adults is not illegal, and exploitation of women, especially teenage prostitutes, remains a serious problem. Law enforcement officials periodically stage raids on houses of prostitution.

There were reports of trafficking in women (see Section 6.f.).

The Labor Code prohibits sexual harassment; however, a majority of women in the workplace face sexual harassment. Claims of abuse are filed with the courts and the Ministry of Justice and Labor (which received two complaints during the year). Sex-related job discrimination continues to be common and widely tolerated. The Secretariat of Women's Affairs occasionally sponsors programs intended to give women free and equal access to employment, social security, housing, ownership of land, and business opportunities.

Women have much higher illiteracy rates than men; an estimated 16 percent of rural women are illiterate, compared with approximately 10 percent of rural men. In addition, maternal mortality rates are high, and as many as 65 percent of such deaths are related to poor medical care. Several groups work to improve conditions for women, including Women for Democracy, which is active in civic and electoral education. Other groups include SUMANDO, an NGO that promotes educational re-

form and voter participation in elections; and SEFEM, which focuses on women and public policy and the participation of women in local development.

In March the Government adopted a Protocol on the U.N. Committee for the Elimination of Discrimination Against Women (CEDAW) that allows CEDAW to receive and investigate complaints of abuses.

Children.—The Constitution protects certain children's rights and stipulates that parents and the State should care for, feed, educate, and support children. The population is very young, with 39.5 percent under the age of 15 and 50.4 percent under the age of 20, according to 2000 census projections. According to a February 2000 census survey, 42 percent of children age 14 or younger lived in poverty, compared with 32 percent of the general population. Boys and girls are entitled to equal treatment in education and health care. However, female have less access to education, particularly in rural areas. The educational system does not provide adequately for the educational needs of the population. The Government has been unable to implement fully amendments to its General Education law, such as extending compulsory attendance through ninth grade, because of inadequate funds. Families pay a fee to cover each school's administrative expenses and must purchase books, uniforms, and other supplies for their children's use.

Abuse and neglect of children is a problem. A local NGO attributes a rise in the number of complaints of mistreatment of children during 2000 to the increased awareness of child abuse and neglect.

Sexual exploitation of children also is a problem. In a survey released during the year, the NGO "AMAR" identified 619 child victims of sexual exploitation, the vast majority of whom in Asuncion and Ciudad del Este. Approximately 33 percent of the victims were under the age of 16.

Trafficking in girls for the purpose of sexual exploitation is a problem (see Section 6.f.).

There continued to be reports of the forced conscription of underage youth (see Section 1.f.).

Children 14 and older are treated as adults for purposes of arrest and sentencing.

Child labor is a problem, and many children who work suffer from abuse, malnutrition, disease, and lack of access to education (see Section 6.d.).

In December the Government enacted the Childhood and Adolescence Act, which sets forth human rights provisions for children and establishes a mechanism for reviewing allegations of abuse.

Persons with Disabilities.—The Constitution provides for equal opportunity for persons with disabilities and mandates that the State provide them with health care, education, recreation, and professional training. It further requires that the State formulate a policy for the treatment, rehabilitation, and integration into society of persons with disabilities. However, the Congress never has enacted legislation to establish such programs or provide funding for them. Many persons with disabilities face significant discrimination in employment; others are unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for the persons with disabilities, and the vast majority of the country's buildings, both public and private, are inaccessible.

Conditions at the Neuropsychiatric Hospital are substandard, and some patients reportedly are kept unclothed in cells and are not treated for their mental illnesses. The physical facilities of the hospital lack running water, electricity, or even roofs, and the hospital is severely understaffed. Children are housed with adults in the facility and have been subject to sexual assaults from older patients. In April a 14-year-old inmate died amid allegations of neglect and mistreatment (see Section 1.a.). No information is available on the Government's response to problems at this facility.

Indigenous People.—The Constitution provides indigenous people with the right to participate in the economic, social, political, and cultural life of the country; however, the indigenous population, estimated at 75,000 to 100,000, is unassimilated and neglected. Low wages, long work hours, infrequent payment (or nonpayment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination are common. Numerous indigenous groups have challenged Congress's proposed changes to the Indigenous Community Statue, which grants local groups the right to observe their traditional lifestyles and customs. Weak organization and lack of financial resources limit access by indigenous people to the political and economic system. Indigenous groups relied primarily upon parliamentary commissions to promote their particular interests. The Constitution also protects the property interests of indigenous people, but these rights still are not codified fully. The Constitution allows Public Ministry officials to represent indigenous people in matters involving the protection of life and property.

Lack of access to sufficient land also hinders the ability of indigenous groups to progress economically and maintain their cultural identity. In addition, there is insufficient police and judicial protection from persons encroaching on indigenous lands. The Government's National Indigenous Institute (INDI) has the authority to purchase land on behalf of indigenous communities and to expropriate private property under certain conditions to establish tribal homelands. However, there have been significant allegations of wrongdoing within INDI. Furthermore, many indigenous people find it difficult to travel to the capital to solicit land titles or process the required documentation for land ownership.

Other significant problems facing the indigenous population include lack of shelter and medical care, economic displacement resulting from other groups' development and modernization, and malnutrition. Scarce resources and limited government attention resulted in little progress in dealing with these problems. However, there were individual small successes that benefited indigenous people. In June the Government executed a court order and dislodged farm workers who took over the lands of the Mbya indigenous group in 1994. The Mbya had camped in front of the Congress for the last 2 years both in protest and for lack of a place to live.

In October the Supreme Court suspended the eviction notice against members of the Yakye Axe (Enxet) indigenous group in the Chaco after the OAS's Inter-American Commission on Human Rights filed a petition on the group's behalf.

Section 6. Worker Rights

a. The Right of Association.—The Constitution allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference. The Constitution contains several provisions that protect fundamental worker rights, including an antidiscrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. Approximately 121,000, or 15 percent, of workers are organized in approximately 1,600 unions.

In general unions are independent of the Government and political parties. One of the country's three labor centrals, the Confederation of Paraguayan Workers (CPT), traditionally was aligned closely with the ruling Colorado Party.

All unions must be registered with the Ministry of Justice and Labor. Although the official registration process is cumbersome and can take several months due to government bureaucracy, since 1997 the Ministry of Justice and Labor has issued provisional registrations within weeks of application. Employers who wish to oppose the formation of a union can delay union recognition further by filing a writ opposing it. However, almost all unions that request recognition eventually receive it. The official process can take a year or more.

The Constitution provides for the right to strike, bans binding arbitration, and prohibits retribution against strikers and leaders carrying out routine union business; however, employers often took action against strikers and union leaders. Voluntary arbitration decisions are enforceable by the courts, but this mechanism is employed rarely. Senior Labor Ministry officials are available to mediate disputes.

The International Labor Organization (ILO) Committee of Experts has noted deficiencies in the application of certain conventions ratified by the Government. These include conventions dealing with minimum wage, abolition of forced labor, minimum age of employment, freedom of association, equal remuneration, and employment policy. The ILO specifically criticized regulations requiring a minimum of 300 workers to form a union as inconsistent with international norms regarding the freedom of association. In response to the ILO criticism, the Ministry of Justice and Labor no longer enforces the 300-worker minimum, although the requirement remains in the Labor Code.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of the strikes were related to the firing of union officials, management violations of a collective contract, management efforts to prevent the free association of workers, or demands for benefits such as payment of the minimum wage or contribution to the social security system. During a series of protests against the executive branch between June and August, unions representing (among others) the water and telephone utilities, the Central Bank, teachers, and bus drivers went on strike. These strikes ended after government assurances that the employees' demands would be met, but few if any of these promises had been satisfied at year's end. For example, teachers returned to work after Congress promised to enact a labor statute specific to their profession, but such a law had not been passed at year's end. Antelco workers seeking to buy the telephone utility conducted strikes throughout the year to press for favorable terms in the upcoming privatization.

Unions are free to form and join federations or confederations, and they are affiliated with and participate in international labor bodies.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, and this provision is respected in practice. According to the Ministry of Justice and Labor, there are approximately 30 collective bargaining agreements in place. However, they were the exception rather than the norm in labor-management relations and typically reaffirmed minimum standards established by law. When wages are not set in free negotiations between unions and employers, they are made a condition of individual offers of employment.

The Constitution prohibits antiunion discrimination; however, the firing and harassment of some union organizers and leaders in the private sector continued. Union organizers sometimes are jailed for their role in leading demonstrations. Fired union leaders may seek redress in the courts, but the labor tribunals have been slow to respond to complaints and typically favored business in disputes. The courts are not required to order the reinstatement of workers fired for union activities. As in previous years, in some cases when judges ordered the reinstatement of discharged workers, the employers disregarded the court order with impunity. The failure of employers to meet salary payments also frequently precipitated labor disputes. Principal problems included bottlenecks in the judicial system and the inability or unwillingness of the Government to enforce labor laws. There are a number of cases in which trade union leaders, fired as long as 7 years earlier, have not yet been decided by the courts. The ILO and the International Confederation of Free Trade Unions have criticized the lack of measures to prevent antiunion discrimination and further have observed that legislation does not oblige labor courts to reinstate unfairly fired trade unionists.

There were also complaints that management created parallel or “factory” unions to compete with independently formed unions. There were several cases of workers who chose not to protest due to fear of reprisal or anticipation of government inaction.

There are no export processing zones. Maquiladora factories, which assemble imported parts for re-export, have been established in the eastern part of the country. The Mercosur trade association has accepted the country’s maquiladora factories into its automotive regime.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced labor, including that performed by children; however, cases of abuse of national service obligations (compulsory military service for all males, unless exempted as conscientious objectors) occurred (see Section 6.d.). There were reports of conscripts forced to work as servants or construction workers for military officers in their residences or privately owned businesses. There also were allegations of forced conscription of under-age youths (see Section 1.f.).

It is a common practice for families who cannot afford to raise a child, most often a daughter and at times as young as 5 years of age, to send her to relatives or colleagues, where she may be expected to work in exchange for room, board, and access to education.

Trafficking in women and girls is a problem (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Director General for the Protection of Minors in the Ministry of Justice and Labor is responsible for enforcing child labor laws; however, in general the Government does not have the resources to enforce minimum working age regulations, and child labor is a problem. National Census statistics report on the labor force as those aged 10 or older. Minors between 15 and 18 years of age may be employed only with parental authorization and cannot be employed in dangerous or unhealthy conditions. Children between 12 and 15 years of age may be employed only in family enterprises, apprenticeships, or in agriculture. The Labor Code prohibits work by children under 12 years of age.

The Statistics Bureau reported that from August to December 2000, 55 percent of boys between the ages of 10 and 19 worked. According to UNICEF, 1 in 3 children (some 462,000) between the ages of 7 and 17 work, many in unsafe conditions. Studies indicate that 42 percent of these children began working by the age of 8, and some 37 percent do not attend school. Thousands of children in urban areas, many of them younger than 12 years of age, are engaged in informal employment such as selling newspapers and sundries and cleaning car windows. Many of the children who work on the streets suffer from malnutrition, lack of access to education, and disease. Some employers of the estimated 11,500 young girls working as domestic servants or nannies deny them access to education and mistreat them (see Section 6.c.). Employers sometimes file false charges of robbery against those who seek to leave domestic jobs and turn them over to the police. In rural areas, it is not unusual for children as young as 10 years of age to work beside their parents in the field. Local human rights groups do not regard families harvesting crops together as an abuse of child labor.

On July 3, the Government ratified ILO Convention 182 on elimination of the worst forms of child labor.

The law prohibits forced or bonded labor by children; however, there were cases of forced conscription of underage youths and trafficking in girls for sexual exploitation (see Sections 1.f. and 6.f.).

e. Acceptable Conditions of Work.—The executive, through the Ministry of Justice and Labor, has established a private sector minimum wage sufficient to maintain a minimally adequate standard of living for a worker and family. There is no public sector minimum wage. In practice most (but not all) government agencies adjust the hours of work for government workers to be paid at a rate comparable to the private sector minimum wage. The minimum salary is adjusted whenever annual inflation exceeds 10 percent, and it was approximately \$170 (782,186 guaranías) per month at year's end, according to the Ministry. However, the Ministry is unable to enforce the minimum wage and estimates that 50 percent of workers earn less. The Labor Code requires that domestic workers be paid at least 40 percent of the minimum wage and allows them to work up to a 12-hour day.

The Labor Code allows for a standard legal workweek of 48 hours (42 hours for night work), with 1 day of rest. The law also provides for an annual bonus of 1 month's salary and a minimum of 6 vacation days a year. The law requires overtime payment for hours in excess of the standard. However, many employers violate these provisions in practice. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely stage strikes to demand that their employers comply with the Labor Code's provisions on working hours, overtime, and minimum wage payments.

The Labor Code also stipulates conditions of safety, hygiene, and comfort. The Ministry of Justice and Labor and the Ministry of Health did not effectively enforce these provisions, due in part to a lack of inspectors and other resources.

Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their continued employment, but they may not do so until such conditions are recognized formally by the Ministries of Justice and Labor and Health. Although there are laws intended to protect workers who file complaints about such conditions, many employers reportedly took disciplinary action against them.

f. Trafficking in Persons.—There is no specific legislation to prevent trafficking in persons, although the Penal Code prohibits sexual trafficking. There were sporadic reports of trafficking of women and girls for sexual purposes. Press reports indicate that up to 200 women may have been trafficked to Argentina in 2000 and in the early part of the year for purposes of prostitution. The reports suggest that traffickers falsely promise the women and girls jobs as models or domestic servants. In September three Argentine citizens were sentenced to prison terms in Argentina for trafficking Paraguayan women to work as prostitutes in Buenos Aires.

PERU

Peru is a multiparty republic that recently emerged from a decade of authoritarian government and is undergoing a process of democratic transformation. In November 2000, President Valentin Paniagua took power and led a transition government after then-President Alberto Fujimori resigned and was dismissed from office. Under President Paniagua, the Government held elections in April and June, which observers considered to be generally free and fair. Alejandro Toledo of the Peru Posible party won the presidential runoff election with approximately 53 percent of the vote and was inaugurated in July. The Constitution provides for an independent judiciary; however, in practice the judiciary has been subject to interference from the executive and is corrupt and inefficient. The Government took steps to implement important judicial reform during the year.

The police and military share responsibility for internal security. In November 2000, Congress dismantled the National Intelligence Service (SIN) and in June passed legislation to create a new intelligence system under civilian control, with congressional oversight. Members of the security forces committed some serious human rights abuses.

The country's population is approximately 27 million. Over the last decade, the Government transformed a heavily regulated economy into a market-oriented one. Gross domestic product (GDP) showed no growth during the year, compared with 3.1 percent growth in 2000. Inflation, which was 3.7 percent in 2000, fell to less than 1 percent for the year. Per capita GDP is estimated at \$2,085. Major exports include copper, gold and other minerals, fishmeal, textiles, and agricultural prod-

ucts. More than half of the economically active population works in the informal sector. The urban unemployment rate is officially 9.5 percent of the workforce, with underemployment of over 40 percent. The poor constitute approximately 54 percent of the population, earning less than \$1.25 per day; about 15 percent of the population lives in extreme poverty, unable to meet the most basic food, shelter, and clothing requirements.

The Government made significant institutional improvements during the year; however, the human rights record remained poor in several areas and longstanding problems remain. Police and prison security forces committed seven extrajudicial killings. The security forces tortured, beat, and otherwise abused detainees. Abuse of military recruits continued. Impunity remained a problem, and security forces sometimes harassed victims or other witnesses to keep them from filing charges. Overall prison conditions remained poor and were extremely harsh in maximum-security facilities. There continued to be reports of arbitrary arrest and detention. Pre-trial detention continued to be prolonged, and trials are frequently subject to inordinate delays. Despite extensive changes to reduce executive dominance over the judiciary, problems persisted, including the general inefficiency of the system. The authorities violated privacy rights. The general climate for press freedom improved during the year, although there were some problems. Violence and discrimination against women continued. Violence against children and discrimination against persons with disabilities, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argue that labor laws and practices restrict freedom of association and collective bargaining rights. Child labor remained a serious problem in the informal sector.

Both the Paniagua and Toledo administrations took steps to implement important democratic reforms to improve the exercise of civil and political rights and to address allegations of corruption in the judiciary, the executive, and the intelligence service. The Paniagua administration created a National Initiative Against Corruption, a Truth Commission, and a Commission on Constitutional Reform. In June former de facto SIN Chief Vladimiro Montesinos was captured in Venezuela and the Peruvian National Police (PNP) brought him back to the country to face a range of charges, including murder, corruption, money laundering, and drug trafficking. President Toledo continued these efforts, appointed an anticorruption czar, and initiated other reforms to restructure the police and judiciary. In February Congress voted to return the country to the jurisdiction of the Inter-American Court of Human Rights. Adhering to Court rulings, the Government moved to prosecute perpetrators of human rights abuses from previous years. In an effort to address impunity, the Government, Congress, and the judiciary undertook dozens of investigations during the year into political abuses and corruption of the Fujimori period (1990–2000). However, some of these investigations appeared to have politically partisan overtones. On August 27, Congress voted unanimously to remove former President Fujimori's immunity from prosecution as a former head of state, and in September he was indicted on charges of murder, causing grave injuries, and responsibility for forced disappearances. In November the Truth and Reconciliation Commission began to investigate past human rights abuses.

Sendero Luminoso terrorists were responsible for killings, torture, and numerous other abuses.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings. The police committed three killings and prison security forces committed four killings. Two military recruits died under suspicious circumstances.

The Human Rights Commission (COMISEDH) and Amnesty International report that abuse of individuals in police custody and inmates in prison by security forces continues to be a problem (see Section 1.c.). When police officers were the perpetrators, the abuse usually took place at the police station just after the arrest, while the detainee was held incommunicado (see Section 1.d.). When detainees die as a result of abuse or torture, COMISEDH reports that the security forces sometimes describe the incident as a suicide. In these cases, nongovernmental organizations (NGO's) such as COMISEDH file a complaint of torture and present evidence they may have to a prosecutor, who then proceeds with an investigation. Impunity is a problem, and the authorities who commit such abuses seldom are held responsible.

In February National Prison Institute (INPE) prison officers recaptured and subsequently killed two inmates, Juan Carlos Campos Valentin and Graciano Rufino Martinez, who had escaped from the Challapalca jail. The authorities pursued the inmates, found them in a ravine and shot them in the feet, placed the men in a

vehicle, and took them back to Challapalca. Later, the two men died as a result of their injuries in Capaso, as they were being taken to a hospital in Puno. At year's end, an investigation was under way in Puno.

Also in February, an inmate of the Lurigancho prison, Felipe Davila Gamarra, died from injuries he received during a severe beating. Before dying in the hospital, Gamarra told relatives that the police officers in the prison had beaten him. He had been serving a 7-year sentence for stealing a tricycle and was about to be pardoned for good behavior.

On May 5, police arrested Jenard Lee Rivera San Roque, a former member of the army, on suspicion of theft and took him to the police station in Cruz Blanca. The next morning nine policemen, eight of them dressed in civilian clothing, allegedly took Rivera to his home in San Bartolome. They entered his home without a search warrant (see Section 1.f.). Witnesses claim that the police officers kept Rivera in his home the entire day while they tortured and beat him repeatedly with a chain. His relatives were not allowed to enter the house. In the evening, the policemen took him back to the police station, where they allegedly continued to torture and beat him. On May 9, he was found dead in his cell. The police claimed that he hanged himself. His face and body showed evidence of torture. According to Amnesty International, police agents harassed Rivera's family. The police also have harassed the family's attorney and other persons for protesting Rivera's death. Amnesty International has stated that the police are attempting to prevent Rivera's family and neighbors from bringing to justice the officers responsible for his torture and death. The organization filed a complaint regarding both the torture of Rivera and harassment of his family, and an investigation was pending at year's end.

According to COMISEDH, on June 28, police officers beat Nazario Victor Valencia Porras after they took him to the Matucana police station as a robbery suspect. On July 1, the police told his sister that he had committed suicide. COMISEDH reported that there were irregularities in Valencia's arrest report, and that he may have died as a result of injuries he received while in police custody (see Section 1.c.). At year's end, a prosecutor was investigating the case.

According to COMISEDH, on August 5, INPE prison officers in Pocollay, Tacna, beat Guillermo Navarro Rospigliosi to punish him for drinking alcohol in his cell. After observing his injuries, a prosecutor ordered prison officials to send him to a hospital for treatment. Upon his return on August 6, prison officials put Navarro into solitary confinement. According to other inmates, INPE officers again severely beat him and tortured him with electric shocks. The torture led to Navarro's death. INPE reported that Navarro committed suicide by hanging himself (see Section 1.c.). At year's end, Rospigliosi's body had been exhumed and a prosecutor was investigating the case.

On August 27, police officers from the Villa Maria Sur patrol unit detained Cesar Augusto Ayaucan Arguedas. Police accused him of robbing a taxi driver and claimed that he was drunk at the time of arrest. One police officer and the taxi driver severely beat Ayaucan. They allowed him to go home after the beating. At home, Ayaucan complained of abdominal pain and was taken to a hospital where he was declared dead on arrival. At year's end, an investigation was pending.

In November 2000, police stopped taxi driver Carlos Lopez Flores in Ayacucho and accused him of involvement in narcotics trafficking. Eyewitnesses reported that they saw three uniformed policemen beat and shoot Lopez, who died 3 days later. In December 2000, the Public Ministry's office was investigating the case after a complaint was filed against the three police officers for torture and murder. Amnesty International reported that unknown persons have harassed the victim's mother in an apparent attempt to deter her from trying to bring to justice the police agents who allegedly killed her son.

In the case of the killing in 2000 of Alejandro Damian Trujillo Llontop, the judge determined that errors were made in the deposition process during which witnesses gave their testimony, and he released the 10 police officers accused of Trujillo Llontop's murder. In August the prosecutor's office in Lima accused the 10 policemen of a crime against humanity—forced disappearance—in the Trujillo Llontop case. At year's end, the case was pending further action at the superior prosecutor's office in Lima.

There were no new developments in the 1999 killings of Tito Mariluz Dolores, Ronny Machaca Flores, and Mario Clemente Guillen Mendez, who died after police detained them. There were no developments in the 1999 death of Esteban Minan Castro.

Military service is no longer mandatory, but mistreatment of military recruits, including cases which resulted in death, continued to be a problem (see Section 1.c.). According to press reports, two military recruits, Percy Cusihualpa Franco and

Isaias Yanac Rodriguez, died under suspicious circumstances, but no further details were available.

On September 27, 2000, the body of Juan Carlos Aliaga Mera, a noncommissioned air force officer, who was a crewmember in President Fujimori's presidential plane, was found in the Callao Air Group 8 Complex. His body had a bullet wound in the head and, according to the family, signs of brutal torture around the neck, ankles, and face. According to COMISEDH, air force doctors performed an autopsy without the required presence of the Provincial Prosecutor, and without the authorization of the doctors from the police criminal division, who were in charge of the investigation. The autopsy only mentioned the bullet wound to the head. The air force claims that Aliaga committed suicide. On March 7, COMISEDH filed a criminal complaint against two noncommissioned officers, Angel Rodriguez and Colonel William Barrera Herrera, for the crime of torture. At year's end, the case was under investigation and expected to be handled by the 6th Criminal Court of Callao.

In May 2000, police in Tacna arrested Nelson Diaz Marcos on charges of public intoxication and allegedly tortured him before killing him. COMISEDH reported that in June 2000 the prosecutor charged policemen Victor Pachas Mamani and Carlos Laqui Marquina of torture. The policemen sought to be tried in a military court, but in August, the Superior Criminal Court determined that the case should be heard in the civil court system. At year's end, their trial was still pending.

In 2000 Jose Luis Payano joined the air force and complained to his parents that air force officers physically had abused him. In November 2000, Payano's body was found on his base; the military said that he had committed suicide, but his family said that he had been shot and killed. COMISEDH reported that Payano's body was exhumed, and an autopsy determined that Payano was killed by a gunshot from a small caliber firearm, not a rifle as claimed by the air force pathologist who performed the original autopsy. At year's end, an investigation continued.

In June the prosecutor's office began a preliminary investigation of an air force lieutenant and two noncommissioned officers for homicide in the August 2000 death of military recruit Ronald Enrique Pena Garcia of a bullet wound. At year's end, the investigation continued.

In the case of Marino Fernandez Sanchez, who died in December 2000 in a hospital after allegedly having been tortured by military officials, the Huancayo prosecutor's office and the Ombudsman's office carried out a preliminary investigation. At year's end, the investigation was continuing.

In the case of army recruit Lenin Castro Mendoza, who died in September 2000 after an officer beat and kicked him for being intoxicated, the prosecutor's office carried out a preliminary investigation, but the family decided not to file any charges.

In the case of Carlos Orellano Mallqui, who died in police custody in 1998 in Ancash, a military court acquitted the defendants.

In the case of Pablo Espinoza Lome, a jailed inmate killed by prison guards in 1999, COMISEDH reported that the Supreme Court upheld the guilty verdict against prison guard Marcial Eliseo Perez. A lower court had found Perez guilty as an accomplice in the crime of torture followed by death; Perez originally had been acquitted of violating the 1998 antitorture law (see Section 1.c.). The Supreme Court increased Perez's jail sentence from 4 years to 6 years and increased the indemnity he was ordered to pay to approximately \$5,700 (20,000 soles).

Following the recommendation of the Inter-American Human Rights Commission (IACHR), on December 21, the Government awarded \$157,000 to the parents of Mariella Barreto as compensation for their daughter's death. The Government also awarded a pension to Barreto's two children. Barreto's family accepted the Government's offer. The Government announced that it plans to investigate the crime and punish those responsible. Barreto, an army intelligence (SIE) agent, was kidnaped, tortured, and killed in 1996. Her dismembered and decapitated body was found in 1997.

On August 27, Congress voted unanimously to remove former President Fujimori's immunity from prosecution as a former head of state. In September Fujimori was indicted on charges of murder, causing grave injuries, and responsibility for persons who disappeared in relation to La Cantuta and Barrios Altos. Fujimori, along with former SIN de facto head Montesinos, was accused of being responsible for the extrajudicial killing of 19 persons in the Barrios Altos section in Lima in 1991 and the disappearance of 9 students and a professor at La Cantuta university in 1992 (see Section 1.b.). Both events have been attributed to the La Colina death squad allegedly formed by members of army intelligence.

On November 8, the Ombudsman turned over to the Truth and Reconciliation Commission evidence of human remains in 51 mass graves (see Section 4). More than half of the graves are located in Ayacucho.

In June 2000, the press reported that peasants had discovered a mass grave, no older than 10 years, containing the remains of between 8 and 12 bodies in the area of Colcabambla, Huancavelica. According to NGO's, the gravesite is located along a trail used frequently by army patrols and terrorist columns in the 1980's and early 1990's. In 2000 representatives from the Human Rights Ombudsman's office observed that irregularities in handling of evidence had compromised the forensic integrity of the investigation.

Unlike the previous year, there were no reports that peasants or others died during armed confrontation with owners of land they occupied.

Sendero Luminoso terrorists killed 31 persons during the year in the course of 130 acts of violence.

b. Disappearance.—There were no reports of politically motivated disappearances.

In the case of Walter Munarriz Escobar, who disappeared in 1999 after being taken into police custody in Huancavelica, a court found two of the six PNP officers guilty of committing a crime against humanity—forced disappearance—and sentenced them to 18 years in jail and fined them approximately \$5,700 (20,000 soles). The court acquitted the other four officers charged in the case; COMISEDH filed an appeal to annul the acquittals.

The Government paid Ernesto Rafael Castillo Paez's family \$245,000 in indemnity in accordance with the Inter-American Human Rights Court's order. According to the Legal Defense Institute (IDL), the 15 policemen accused of aggravated kidnaping in this case only have been ordered to appear in court when summoned. The IDL filed an appeal to this order, asking that the policemen be kept in custody while awaiting trial.

According to a 2000 report from the Ombudsman's office, the number of persons who disappeared in the war against terrorism since 1980 may exceed 4,000. The Ombudsman's office noted that the Sendero Luminoso or Tupac Amaru (MRTA) rebels abducted the majority of victims, mainly indigenous peasants.

In September the Ministry of Justice obtained clarification from the Inter-American Court of Human Rights regarding its ruling that the two 1995 amnesty laws exempting military officials from prosecution in the 1991 Barrios Altos massacre were invalid. Based on the clarification, the Government stated that it plans to bring members of the security forces to justice in other human rights abuse cases. Also in September, former President Fujimori and former intelligence adviser Montesinos were indicted on charges involving responsibility for the Barrios Altos massacre, the La Cantuta disappearances, and other human rights abuses (see Section 1.a.). Few members of the security forces have been held accountable for their role in disappearances, and impunity remains a problem.

In June President Paniagua established a Truth Commission to consider human rights violations, including disappearances, committed by government security forces and armed insurgency groups over the past 20 years (see Section 4).

On January 8, the Government signed the Inter-American Convention Against Forced Disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit torture and inhuman or humiliating treatment; however, in practice torture and brutal treatment by the security forces continued to occur. COMISEDH and Amnesty International report that abuse of individuals in police custody and inmates in prison by security forces continues to be a problem. In 2000 the Human Rights Ombudsman and NGO's had described such abuse as widespread.

Torture most often takes place immediately following arrest. Torture is common during police detention when families are prohibited from visiting suspects while they are held incommunicado, and attorneys have only limited access to them (see Section 1.d.). In a number of cases during the year, suspects died following torture and beatings by security officials; NGO's used charges of torture to bring cases in previous killings (see Section 1.a.).

In some cases, the police and security forces threaten or harass victims, their relatives, and witnesses in an attempt to keep them from filing charges of human rights violations. According to Amnesty International, several victims have been too scared to follow through with judicial proceedings against their abusers, who subsequently were released without being charged.

In past years, such abuse was particularly common in police cells operated by the National Counterterrorism Directorate (DIRCOTE) and in detention facilities on military bases, where terrorism and treason suspects normally were held. Psychological torture and abuse, which result from the harsh conditions in which detainees are held, are more characteristic of the prisons.

COMISEDH reported 36 cases of aggravated torture by security forces, compared with 35 in 2000. The majority of cases involved incidents of police brutality and beatings during detention.

For example, on May 30, 15 policemen severely beat Teobaldo Pozo Tupayachi, an inmate at the Quencoro prison. In protest, Pozo went on a hunger strike and police officers subsequently harassed him and threatened him with death if he did not withdraw the charges against them. Other inmates attacked him, and his attorney claims that the prison director ordered the inmates to do so. Prison authorities denied Pozo's attorney and social worker, both from the Association for Life and Human Dignity in Cusco, access to the prison.

In December 2000, Amnesty International released a report on 21 cases of alleged torture in the previous 2 years. Supported by a large number of NGO's, the organization called on the Government to stop impunity in cases of torture; to try all such cases in civilian, rather than military, courts; and to apply the law against torture to all security force members implicated in cases of torture. The authorities have brought charges against 20 persons under this law. However, after initial investigations in four cases, prosecutors decided either not to charge the alleged perpetrators or to drop all pending charges. In several other cases, prosecutors filed charges on lesser offenses and sought milder sentences than required under the antitorture law. At year's end, Amnesty International reported that since passage of the 1998 legislation, only two perpetrators had been sentenced under that law.

The court did not charge the police officers accused in the 1999 torture case of Antero Espinoza Alzamora with any crime, and the case is considered closed. The police officers accused in the 1999 torture case of Jesus Natividad Roman Portocarrero were charged with abuse of authority, not torture; they received 2-year suspended sentences and a fine of \$286 (1,000 soles) each.

There were no new developments in torture cases from 1999 and 2000 involving the following victims: Catalino Daga Ruiz, Bernardo Daga Ruiz, Mario Jimenez Roque; Julio Armando Uribe, Moises Paco Mayhua, and Victor Valle Cabello.

In the case of three police officers in Chinga, Ica, who detained Luis Enrique Rojas Vasquez in August 2000, beat him and threatened to torture him if he didn't confess to a robbery, the prosecutor dropped the charges of torture and abuse of authority and closed the case.

In the case of Amador Carmen Canchaparan, whom military officials arrested and allegedly tortured on a military base in April 2000, COMISEDH reported that a criminal court is expected to try army Major Max Espinoza Sanchez for abuse of authority. At year's end, the trial was at the judicial investigation stage.

In 1999 a special prosecutor charged several naval officers under the antitorture law for allegedly torturing Raul Teobaldo in 1998. IDL reported that the hearings were dismissed and the trial was declared null and void due to various problems, including allegations that there was collusion between members of the court and attorneys for the military defendants. A new trial was scheduled to begin in January 2002.

In the 1998 case of torture of Pedro Tintavera, at year's end, the NGO Peace and Hope reported that a court had tried and convicted the three police officers charged with torturing him. Sentencing was expected to occur in January 2002.

Journalist Fabian Salazar, who asserted in May 2000 that the SIN broke into his office, bound him, and confiscated videotapes that allegedly implicated government officials in corruption, presented his case to the IACHR after he fled the country. The IACHR accepted the case and was waiting to receive additional evidence at year's end.

In September the Government acknowledged the infringement on the rights of SIE officer Leonor La Rosa by four of her colleagues, who beat and tortured her in 1997. The Government rendered the 1999 indemnity awarded her by the Supreme Council of Military Justice of approximately \$1,500 (5,250 soles) null and void. The Minister of Defense issued a Supreme Resolution entitling La Rosa to free medical care, life insurance, and a disability pension of \$229 (800 soles) per month, which she accepted.

As in previous years, NGO's and the Human Rights Ombudsman received complaints that the military beat or otherwise mistreated some members of the military service. Mistreatment of military recruits continued to be a problem and possibly resulted in deaths of two recruits during the year (see Section 1.a.).

For example, COMISEDH reported that Frank Alfredo Romero Arrieta was in good health when he joined the military on February 19. On February 25, he told his family that his superior officers were abusing him physically and psychologically, and his family observed wounds on his face and hands. On February 28, Romero called his home and spoke to a family member. He begged the family member to get him out of the military facility, saying that officers were beating him fre-

quently. On March 1, he had no feeling in his legs when he was taken to the Air Force Central Hospital; his spinal column was injured and he was unable to walk normally at year's end.

The authorities failed to resolve a number of cases of torture and mistreatment of military recruits from previous years, including the 1999 beating cases of Elvis Lopez Tuya and Jaime Palacios Sanche, who died as a result.

In June President Paniagua established a Truth Commission to consider human rights violations, including torture, committed by government security forces and armed insurgency groups over the past 20 years (see Section 4).

There continued to be credible reports that Sendero Luminoso was also responsible for acts of torture, including cases that resulted in death.

Citizens at times take the law into their own hands, meting out severe physical punishment to persons committing offenses such as robbery, burglary, rape, and child molestation.

There were occasional bombings or simulated bombings during the year, apparently by Sendero Luminoso. On May 16, a bomb exploded near the National Elections Board building in downtown Lima, injuring several persons. According to reports, two men were passing out Sendero Luminoso propaganda while a taxi waited; a woman left the bomb as a package on the sidewalk, and the three departed in the taxi. On four occasions in September, police were called to examine packages left in public places that appeared to be bombs; the devices were accompanied by Sendero Luminoso propaganda, including leaflets with subversive slogans. No explosives were found on any of these four occasions. The May 16 bombing was the first in downtown Lima in several years.

Conditions are poor to extremely harsh in all prison facilities. About one-half of all prisoners are in facilities where the National Police have both internal and external control; the other half are in facilities under internal control of National Prison Institute guards and under external control by the police. Conditions are especially harsh in maximum-security facilities located at high altitudes. Low budgets, severe overcrowding, lack of sanitation, and poor nutrition and health care are serious problems. Prison guards and fellow inmates routinely victimized prisoners, and prison security forces committed four killings during the year (see Section 1.a.). Corruption is a serious problem among poorly paid prison guards, many of whom engage in sexual abuse, blackmail, extortion, narcotics trafficking, and the acceptance of bribes in exchange for favors that ranged from providing a mattress to arranging an escape. Since prison authorities do not supply adequate bedding and budget only about \$0.79 (2.75 soles) per prisoner per day for food, the families of prisoners typically must provide for these basic needs.

Overcrowding and inadequate infrastructure hamper efforts to improve prison living conditions. The 81 prisons and detention facilities held 26,769 prisoners at year's end. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 6,000 prisoners live in a facility built to accommodate 1,500. Inmates in all prisons have only intermittent access to running water; bathing facilities are inadequate; kitchen facilities remain generally unhygienic; and prisoners sleep in hallways and common areas due to lack of cell space. Illegal drugs are abundant in many prisons, and tuberculosis and HIV/AIDS are reportedly at near-epidemic levels. As of October, approximately 57 percent of all prisoners had not been sentenced (see Section 1.d.). Pretrial detainees are held together with convicted prisoners in most cases. Detainees held temporarily while awaiting arraignment in Lima are not provided with food. This temporary detention period lasts from a few hours up to 3 days. The detainees are not allowed outside for fresh air and have restricted access to bathrooms.

The International Committee of the Red Cross (ICRC) reports a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

According to human rights monitors, the Challapalca prison in Tarata, Tacna, seriously violates international norms and standards, particularly as a result of its isolation and high altitude. Located at 14,000 feet, Challapalca's freezing temperatures and oxygen-thin air have unavoidably detrimental effects on prisoner health. The prison can be reached only after an all-night bus ride from the nearest population center, limiting inmates' contact with family. To relieve some of the isolation, the ICRC funds periodic visits by families. Hospital care is 6 to 8 hours away, depending on road conditions, by overland transportation. Face-to-face consultations by inmates with their attorneys are rare. Isolation or punishment cells in this prison are extremely small and sometimes hold two prisoners at a time. Torture and abuse of inmates is common in Challapalca, and in February the authorities shot and killed two escaped prisoners (see Section 1.a.). In 1998 the International Fed-

eration of Human Rights, as well as visiting members of the IACHR and the Ombudsman, called on the Government to close the prison, but it remains in operation.

There were numerous prison protests during the year, including nine violent prison riots that occurred in Sarita Colonia prison in Callao, Castro Castro and Lurigancho prisons in Lima, San Antonio de Pocollay prison in Tacna, the Pisci prison, the Socabaya prison in Arequipa, and the Chachapayas prison.

Male and female prisoners are housed separately. In high-security prisons, female inmates are allowed to see their children once a week. In women's prisons, children 3 years of age and younger live with their jailed mothers. There are also separate juvenile facilities, in which conditions are not as harsh as those in adult prisons.

The Government permits prison visits by independent human rights monitors, including the ICRC. Members of the Ombudsman's office were allowed to visit the naval facility in Callao for the first time in December 2000 (see Section 4). The Ombudsman's office continued to visit the Callao facility during the year. The ICRC made 134 first-time visits to new inmates during the year and visited a total of 2,485 inmates in prisons, detention facilities, and juvenile detention facilities, including 7 visits to the maximum-security naval station in Callao. Unlike the previous year, neither the ICRC nor the Ombudsman's office were denied access to any prisons during the year.

d. Arbitrary Arrest, Detention, or Exile.—There continued to be reports of arbitrary arrest and detention. The Constitution, Criminal Code, and antiterrorist statutes delineate the arrest and detention process. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Although the authorities must arraign arrested persons within 24 hours, they often violate this requirement. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable. However, the authorities often disregard this requirement. Police abuse of detainees is a problem (see Sections 1.a. and 1.c.), and the abuse usually took place at the police station just after the arrest, while the detainee was held incommunicado. A law passed in December 2000 allows the authorities to detain suspects in investigations for corruption for up to 15 days without arraignment. The law also permits authorities to prohibit suspects under investigation for corruption from traveling abroad.

Detainees have the right to a prompt judicial determination of the legality of their detention and adjudication of habeas corpus petitions; however, according to human rights attorneys, judges continued to deny most requests for such hearings. In Lima and Callao, detainee petitions for habeas corpus had been restricted severely, because under a 1998 executive branch decree issued as part of the war on crime, only 2 judges were able to hear such petitioners, instead of the 40 to 50 judges in previous years, thereby significantly delaying justice. In December 2000, the Government restored the number of judges able to hear habeas corpus petitions to its original level as part of the restructuring of the court system.

Police may detain terrorism and treason suspects for a maximum of 15 days and hold them incommunicado for the first 10 days. Treason suspects, who are handed over automatically to military jurisdiction, may be held incommunicado for an additional 30 days. When suspects are held incommunicado, attorneys have access to them only during the preparation and the giving of sworn statements to the prosecutor.

In 2000 the special terrorism chamber of the superior court dismissed 300 arrest warrants of the estimated 4,000 to 5,000 persons still subject to detention orders (see Sections 1.e. and 2.d.). The Ombudsman's office estimates that this number actually may be higher. These cases involved many persons who allegedly were forced to participate in terrorist activities during the internal conflict, or who were accused falsely of links with terrorist groups. In 1998 the Human Rights Ombudsman called on the Government to rescind all outstanding detention orders that were more than 5 years old and to cancel all orders that did not comply with legal specifications. The Government did not comply with the Ombudsman's request; however, Congress enacted a new law on May 18 that allows these individuals to have their detention orders changed to court summonses. As of October, only one detention order had been converted in this manner (see Section 1.e.).

As of October, the Government had approved 90 pardons recommended by the ad hoc Pardons Commission and the Justice Ministry's Council on Human Rights, which evaluated and recommended pardons for persons convicted of terrorism. This brought the total to 726 pardons (see Section 1.e.).

Approximately 43 percent of a total prison population of 26,769 had been sentenced, according to the INPE. About 50 percent of the prison population remained

incarcerated in Lima; of these, 65 percent have been convicted but remained unsentenced. The IACHR and the U.N. Commission on Human Rights have expressed concern about the large number of unsentenced prisoners. In December 2000, President Paniagua committed the Ministry of Justice to assess procedures for reviewing cases with pending sentences. The problem of prisoners who have served their terms and still have not been released continued. The Justice Ministry had recommended better ways to track the status of prisoners in the penal system, but NGO's report that, as of year's end, no progress had been made due to a lack of resources and organization.

According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averages between 26 and 36 months, during which time suspects remain in detention. Those tried by military courts on treason charges generally do not have to wait more than 40 days for their trial; however, as trial procedures in military courts lack full due process protections, the speed with which trials are conducted offers little benefit to the defendants. Once trials have concluded, prisoners often have to wait long periods before being sentenced.

Human rights organizations reported that police routinely detain persons of African descent on suspicion of having committed crimes, for no other reason than the color of their skin, but rarely act on complaints of crimes against blacks (see Section 5).

Many individuals associated with the Fujimori administration are the targets of criminal investigations. Anticorruption legislation enacted in 2000 gave judicial authorities expanded powers to detain witnesses and suspects. Many of those detained under these laws complain that the cases against them are politically motivated, and some of the investigations appeared to have politically partisan overtones.

The Constitution does not permit forced exile, and the Government does not use it in practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice the judiciary has been subject to interference from the executive. It is also subject to corruption and is notably inefficient. Public confidence in the judiciary remains low.

There is a 3-tier court structure that consists of lower and superior courts and a Supreme Court of 33 judges. In November 2000, the Constitutional Tribunal resumed its mandate to rule on the constitutionality of congressional legislation and government actions. In late 2000, the Government restored the powers of the independent National Magistrates Council (CNM) to appoint, evaluate, and discipline judges and prosecutors. The Judicial Academy trains judges and prosecutors; it began to restructure its work after Congress abolished the mandatory 2-year training of all candidates for appointment. In May the Government appointed new members to the board of the Judicial Academy.

In 2000 President Paniagua began to reform the judicial branch. At the end of 2000, the Government abolished the executive committees responsible for provisionally appointing judges and prosecutors through which President Fujimori had exerted control over the judiciary. At the same time, the Government created transitory councils. At the end of their 90-day mandate, these councils had reassigned hundreds of provisional judges and prosecutors to positions more closely corresponding to their actual rank. The councils also removed judges associated with corrupt practices and reinstated others who had been unfairly separated. The CNM later suspended some and dismissed or prohibited others from holding office for up to 10 years. It returned others to lower courts where they belonged, in keeping with the Organic Law of Judicial Branch.

Beginning in January, the CNM exercised its constitutional authority to certify all judges and prosecutors who have served in their position for 7 years or more. By mid-November, of 364 judges and prosecutors the CNM evaluated, it had recertified 220, while 139 failed to be recertified. Failure to be certified disqualifies a judge or prosecutor from ever working in that capacity again. By year's end, the CNM also had sanctioned numerous judges following investigations into corruption. The CNM sanctions include suspensions, dismissals, and prohibition from holding office for as long as 10 years.

In August the CNM began naming judges and prosecutors to approximately 2,000 vacancies and positions occupied by provisional judges and prosecutors (who were appointed temporarily from a lower court or who were attorneys serving temporarily as judges and prosecutors). These provisional appointees represent roughly 80 percent of the country's approximately 1,565 civilian judges at all levels, including 21 of the 33 judges on the Supreme Court. Former President Fujimori's reliance on provisional and temporary judges had enabled the executive branch to influence cases and to more easily control the judicial branch. In some cases, the judges were assigned independently and without proper training. Critics also charged that since

these judges lacked tenure, they were more susceptible to pressures. In September a congressional investigative panel found that former intelligence advisor Montesinos had improperly influenced cases. The majority of implicated officials either resigned or were suspended; at year's end, some were facing prosecution.

In May Congress enacted a law eliminating a 1996 requirement that mandated 2 years of training in the Judicial Academy prior to a person becoming a judge or prosecutor. This measure opened the ranks of the judicial system to a larger pool of candidates and allowed the CNM to fill vacancies. In August President Toledo nearly doubled the salaries of tenured judges and prosecutors to make work in the judiciary more attractive and to reduce corruption incentives.

In November 2000, Congress restored to the Constitutional Tribunal three judges who had been removed in 1997 after they had opposed the application of a law allowing President Fujimori to seek a third term. Their removal had deprived the court of a quorum to rule on constitutional issues and paralyzed the court. By year's end, Congress had removed one of the seven Tribunal members on corruption charges and the Tribunal was at times unable to reach the required six-member quorum. The Government paid each of the three reinstated judges \$25,000 to cover legal fees but has not compensated them further despite the Inter-American Court's ruling that it should do so.

During the year, the Tribunal decided 13 constitutional cases, 6 of them brought by the Ombudsman's office. In one of them, the court ruled that an electoral law provision banning the dissemination of exit poll results before 10:00 p.m. on election day (6 hours after the polls closed) restricted the public's rights to information (see Section 2.a.). In June the Tribunal declared unconstitutional a 1998 law that stripped 3,000 policewomen of their ranks as officers (see Section 5).

In May Congress passed another law that interprets the constitutional role of the president of the Supreme Court as head of the judicial branch and as such grants him more powers, including control of the judicial budget and the authority to make appointments in key administrative judicial positions.

In July a high-level anticorruption commission appointed by the Government underscored the need to strengthen the independence and transparency of the judiciary. It recommended a new mechanism to elect more transparently the president of the Supreme and superior courts and the subordination of the military justice system to the judicial branch. In October the Government appointed a national anticorruption coordinator, another of the commission's proposals. At year's end, 500 disciplinary actions were in process against judges and prosecutors who were involved in corrupt judicial practices under the Fujimori administration.

The justice system generally is based on the Napoleonic Code. In civilian courts criminal cases move through three distinct phases. First, in a lower court a prosecutor investigates cases and submits an opinion to the examining judge, who determines whether there is sufficient evidence to issue an indictment. If there is, the judge conducts all necessary investigations and prepares and delivers a case report to the superior court prosecutor. Second, the superior court prosecutor reviews the lower court decision to determine if formal charges should be brought and renders an advisory opinion to another superior court, where a three-judge panel holds an oral trial. Criminal case convictions in civilian courts may be appealed, in which case the Supreme Court hears appeals and confirms or rejects the previous decision. All defendants have the right to be present at their trial. Defendants also have the right to counsel; however, the public defender system often fails to provide indigent defendants with qualified attorneys.

There is a presumption of innocence, defendants may call witnesses, and there is a system of bail. Attorneys are supposed to have unimpeded access to their clients.

Under the military justice system, judges in the lower courts have the power to sentence and are required to pass judgment within 10 days of a trial's opening. Defendants may then appeal their convictions to the Superior Military Council, which has 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the Superior Military Council and Supreme Council levels, a significant number of judges are active-duty officers with little or no professional legal training.

The Government's Ministry of Justice Commission reviewed laws governing the military justice system and issued a report in July with recommendations on changes to the Constitution, a few of which incorporated changes to the military justice system. The report went to Congress, and according to IDL, it is expected to be the main input for constitutional reforms by Congress. In July the Government published a draft proposal for a new military justice code, and as of October, it was still open for comments. By year's end, Congress had not acted on legislation to change the Code of Military Justice and the Military Justice Organic Law.

Military courts try cases of treason for civilians or military defendants; there have been no new trials for treason in military courts since November 2000. Military courts also used to try cases of civilians or military charged with "aggravated terrorism," but in November the Constitutional Tribunal ruled that all military tribunal trials for aggravated terrorism were unconstitutional and were, therefore, invalid. Under the Fujimori administration, aggravated terrorism charges were applied to crimes committed by armed gangs of delinquents as a means of deterring crime. At year's end, civilian courts were processing the cases of 152 of the approximately 600 persons tried in military courts under the aggravated terrorism law.

Terrorism is defined as being a terrorist leader or participating in a terrorist group's attack or activities. Human rights groups and legal experts have charged that the vaguely worded definitions of certain crimes in the antiterrorism statutes often led military judges to issue sentences disproportionate to the crimes committed. In 1999 Congress abolished the classification of acts of extreme violence such as criminal gang activity, homicide, kidnaping, and the use of explosives as aggravated terrorism. Under the new law, such cases are designated as "special terrorism," and civilian courts have jurisdiction over such crimes. Civilians charged with simple—as opposed to aggravated—terrorism are tried in civilian courts.

During the Fujimori administration, human rights groups and legal experts criticized the powers of the military courts to try civilians in cases of aggravated terrorism and the inability of the civilian judicial system to review military court decisions. Military courts may hold treason trials in secret. Such secrecy is not required legally, but in some cases the courts deemed that circumstances required it. Defense attorneys in treason trials were not permitted adequate access to the files containing the State's evidence against their clients, nor were they allowed to question police or military witnesses either before or during the trial. Some military judges sentenced defendants without even having notified their lawyers that the trials had begun.

Following the August 2000 Military Supreme Court decision to nullify the terrorism conviction and life sentence of U.S. citizen Lori Berenson, a civilian court tried her case. In June the court found Berenson guilty of collaboration with the MRTA terrorist group, one of two terrorism charges, and sentenced her to 20 years in prison. Berenson's appeal was pending with the Supreme Court at year's end. The IACHR was studying petitions filed on Berenson's behalf by her U.S. attorneys alleging both double jeopardy and due process violations in her civilian trial.

In June 1999, the Inter-American Court of Human Rights ruled against the Government in the case of four Chileans convicted of treason by a military tribunal and sentenced to life in prison. The Court found that the military had denied the defendants' due process rights provided by the American Convention on Human Rights and ruled that a civilian court should have had jurisdiction. It also ruled that military authorities held the suspects too long in pretrial detention; and that defense attorneys lacked access to witnesses and evidence and did not have sufficient time to review the case. Subsequently, the Supreme Court delegated to the Supreme Military Council the final decision regarding enforcement of the Court's decision. The Council had ruled that it could not grant the Chileans new civilian trials because laws passed after signing the Convention required military trials in cases of treason and aggravated terrorism. However, in May the Supreme Council of the Military Court invalidated the military court's decision and provided for new, civilian trials for the four Chileans. At year's end, the case was still at the instruction phase.

Prior to the June 1999 ruling, the Government had refused to accept the Inter-American Court's jurisdiction in cases involving terrorism because laws passed after signing the Convention establishing the Court required military trials in cases of treason and aggravated terrorism. In July 1999, the Fujimori Government decided to withdraw from the Court's contentious jurisdiction; in February Congress voted to return to the jurisdiction of the Inter-American Court of Human Rights (see Section 4).

In midyear the Inter-American Court provided the Ministry of Justice a clarification of its 1999 ruling that found incompatible with the American Convention on Human Rights two 1995 amnesty laws exempting military officials from prosecution that were used to protect those officers accused of the 1991 Barrios Altos massacre. Based on the clarification, the Government plans to bring other members of the security forces to justice in other human rights abuse cases (see Section 1.a.).

A specialized terrorism chamber of the superior court tries cases in the civilian jurisdiction. The chamber is based in Lima, but its judges travel to the provinces as needed. During the year, judges from this court traveled around the country to hear several hundred cases of persons with old warrants outstanding for terrorism charges. Of these, judges found several hundred persons innocent and ordered the cancellation of their warrants. Human rights NGO's and the Human Rights Om-

budsman noted that this addresses the concerns of those who considered themselves innocent, but who feared coming forward for an abbreviated and unfair trial. Despite the chamber's action on many cases, detention orders remain pending against between 4,000 and 5,000 persons allegedly forced to join terrorist groups; in May Congress passed a law whereby individuals facing these pending detention orders may have their legal status changed to that of being subject to summons to appear in court when requested to do so.

In late 2000, the Government established a new Pardons Commission. As of October, 90 persons had been released from prison. Along with 636 persons pardoned between 1996 and 2000, a total of 726 persons have been pardoned and released after being accused unjustly of terrorism. At year's end, approximately 1,700 cases still were pending review (see Section 1.d.). NGO's advocated that the new commission expand its review to include all convictions and sentences rendered by military courts, but by October, the Government had not made a decision on the matter. The original ad hoc Pardons Commission, with a mandate to consider applications of those who believed themselves to be accused unjustly of terrorism, ended its work on December 31, 1999. By the end of 1999, 3,225 of a total of 3,878 persons accused of these crimes had applied for clemency, and 502 had received the Commission's recommendation for pardon. A December 1999 law assigned the Commission's functions to the Justice Ministry's National Human Rights Council. In 2000 the Council recommended (and President Fujimori granted) 32 pardons.

There was no congressional action by year's end on the Human Rights Ombudsman's 1999 recommendation for legislation for monetary compensation of persons released through the Pardon Commission's program. The matter was added to the agenda of the Truth Commission (see Section 4).

The Extrajudicial Conciliation Law, which Congress passed in 1997, was to have made conciliation a mandatory first step in most civil cases by January 2000; however, due to administrative and other delays, partial implementation of the law began in November 2000 in Trujillo and Arequipa, and in March in Lima and Callao. As of December, there were 392 conciliation centers in 20 jurisdictions, and the Justice Ministry had accredited over 10,000 "conciliators," of whom 60 percent are lawyers.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with or serving sentences for terrorism are not considered to be political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution requires security forces to have a written judicial warrant to enter a private dwelling. However, there were reports that the authorities do not always observe this requirement in practice.

The Constitution provides for privacy of communication; and, unlike in previous years, there were few complaints that the Government violated this right.

The case of former SIE agent Luisa Margarita Zanatta Muedas, who fled the country in 1998, after allegedly providing information regarding SIE wiretapping operations, remained pending at year's end. She was charged with disobedience and being absent without permission. In 1999 the Human Rights Ombudsman recommended that the Government pardon Zanatta, that the Public Ministry investigate the wiretapping, and that Congress broaden the investigation conducted by its committee on defense. As of September, the Government had not taken action on those recommendations. At year's end, Zanatta's case was still under investigation and scheduled to be tried in a military court. The Ombudsman's Office requested that the military court take a deposition from Zanatta, who no longer resides in the country. Once the deposition is obtained, the trial may take place.

On December 16, the media broadcast a taped telephone conversation from November 18 between former President Alan Garcia and congressional leader Jorge del Castillo, who is also Secretary General of the American Popular Revolutionary Alliance (APRA), Garcia's political party. During the conversation, the two discussed a meeting that Garcia would have the following day with President Toledo. The Government denied involvement in the illegal wiretapping, and the ad hoc prosecutor filed a complaint to begin an investigation.

A law went into effect in January 2000 making military service voluntary and prohibiting forced conscription. Registration for military service remains obligatory for men aged 18 and older. The President retains the authority to decree the reestablishment of mandatory service. The Human Rights Ombudsman monitors the law's implementation, since past efforts to prohibit forced conscription did not prevent it. The Ombudsman's office received a few complaints of forced conscription during the year.

There were no reports of forced conscription by the MRTA (most of whose surviving members are jailed). Sendero Luminoso, however, continued to coerce indigenous persons to join its ranks (see Section 5).

The Ombudsman's office received no complaints during the year of abuses committed by family planning personnel; however, there were isolated reports that women did not take the full 72 hours to consider their alternatives, as is required by law, before undergoing voluntary sterilization procedures. This is generally attributed to the fact that some women arrive at a clinic ready to give birth and request the sterilization procedure be performed that day, rather than having to make arrangements to return to the clinic at another time.

Acting on allegations that more than 300,000 women were forcibly sterilized between 1995 and 2000 under the Fujimori administration, on October 25, Congress directed the Commission on Health to investigate the voluntary surgical sterilization program. Earlier investigations of the allegations found that primarily during 1996-97, health workers in public hospitals and family planning clinics administered by the Ministry of Health had induced female patients to opt for sterilization by promising them food or another type of goods or services, or by not providing them with complete information about available alternatives. In a 1999 report, the Ombudsman recommended that family planning practitioners provide all clients with complete information about alternatives available to them; not pressure clients into using any particular contraceptive method; and give patients who chose sterilization a 72-hour waiting period during which to consider that option. The Ombudsman also recommended that the Ministry integrate men fully into its family planning program, thereby disseminating reproductive and contraceptive information more equitably across gender boundaries. The Ministry of Health accepted the Ombudsman's report and implemented many of his recommendations.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and, unlike in previous years, the Government generally respected this right in practice, and the general climate for freedom of the press improved during the year; however, some problems remain. Manipulation of opposition journalists through the judicial system and the use of government advertising revenues to influence reporting in print and broadcast media were no longer serious problems. During the year, the Government generally tolerated criticism and did not seek to restrict press freedoms. However, fear of legal proceedings and strong popular opinion discouraged public expressions of pro-Fujimori sentiments in the media. There were reports of some harassment and attacks on journalists, and some journalists practiced self-censorship.

Videotapes of bribes being paid to key figures in the media by Fujimori's intelligence adviser Montesinos confirmed that the Fujimori administration paid five of the six commercial television stations, much of the tabloid press, and at least one serious newspaper to run pro-Fujimori articles and editorials. Several prominent media executives were jailed pending investigation of corruption charges. At year's end, Eduardo Calmell, former director of the daily *Expreso*, was in jail, as were the minority shareholders of Channel 2 and the chairman of Channel 10. Others were fugitives at year's end, including the major shareholder and chairman of Channel 4, the major shareholder of Channel 5, and the chairman of the board and the manager of Channel 9. One was captured in Argentina and faced extradition proceedings.

The local civic association *Transparencia* considered that campaign press coverage was balanced and that access to it was generally open.

During the elections process, the Constitutional Tribunal ruled that an electoral law provision banning the dissemination of exit poll results before 10:00 p.m. on election day (6 hours after the polls closed) restricted the public's right to information (see Sections 1.e. and 3).

The press represents a wide spectrum of opinion, including those in favor of and in opposition to the Government. In the greater Lima area, there are 20 daily newspapers, 7 television stations, 65 radio stations, and 2 news channels on 2 commercial cable systems. There are numerous provincial newspapers and radio stations. All are privately owned except for one government-owned daily newspaper, one government-owned television network, and two government-owned radio stations, none of which has a particularly large audience.

The tabloid papers that were strong supporters of the Fujimori administration either have gone out of business or have changed their coverage to more typical, non-political, tabloid fare. Broadcast television stations also have begun to show a balance in their political coverage and present both progovernment and opposition views. In April the only remaining overtly pro-Fujimori television station affiliated

with pro-Fujimori daily *Expreso*, CCN, lost its cable frequency, ostensibly due to a commercial dispute with the near-monopoly cable provider, Cable Magico. There were indications that Cable Magico may have had ulterior political and financial motives for abruptly canceling its contract with CCN. On April 12, Telefonica published an advertisement saying that its cable system, Cable Magico, was canceling the frequency used by cable channel CCN because owner Manuel Ulloa didn't inform it of his transfer of shares to Vicente Silva, who was representing the Minister of Defense. On April 17, Telefonica published another advertisement saying that the cancellation of CCN's frequency was a business decision that was communicated to CCN in advance. Cable Magico's—and therefore Telefonica's—original stated intention was to carry two cable news channels with opposing viewpoints (Canal N and CCN) to ensure varied points of view. Other broadcasters and some legislators expressed concern over the effective silencing of an opposition news outlet. While the Government took no action in this case, it demonstrates an atmosphere where pro-Fujimori views were unwelcome, although not censored.

The Government has not yet paid the \$30 million in compensation that the Inter-American Court ordered paid to Baruch Ivcher for violating his rights to nationality, ownership, due process, and his freedom of expression rights, because the Government considered it too much and was negotiating a lower figure with Ivcher.

Libel is a criminal offense and cases are brought frequently by individuals—including political figures—against journalists. On September 2, Cecilia Valenzuela of Channel N's political program "Entre Lineas," said that APRA's leader Alan Garcia requested and obtained Montesinos's help to have the judiciary decide the prescription of Garcia's crimes, so that Garcia could return to the country and run in the last presidential elections. Garcia accused Valenzuela of libel, and the process was continuing at year's end.

During the year, Manuel Ulloa withdrew his \$1 million suit for libel and defamation against print opposition newspaper *Liberacion*, which had led to the seizure of the paper's printing press.

Also during the year, the Supreme Court dismissed the libel and defamation charges leveled by former pro-Fujimori Congressman Miguel Ciccía against *Editora Correo*.

At year's end, prosecutors had not closed their case for falsification of official documents against Guillermo Gonzalez, the then-director of the NGO *Prensa Libre* (and who later became President Toledo's press secretary), who broke a 1999 story on government wiretapping of opposition candidates.

On May 2, retired police Colonel Ildorfo Cueva brought charges of libel and defamation against reporters Jesus Castiglione, Martin Gomez, and Hugo Gonzalez, because they publicly accused him of torture. The reporters claimed that they were tortured, accused of terrorism, and unfairly imprisoned while Cueva was in charge of the antiterrorism unit in Ancash. Their reports led to the removal of Cueva from his position.

The Government does not censor the media. Revelations of the scope and depth of media corruption under the Fujimori administration have affected public confidence in the media, particularly television. Congressional committees investigating corruption under that administration have filed criminal complaints against media figures, and fears of future revelations encourage self-censorship by journalists wary of taking a position which may prove controversial in the current atmosphere or which may draw unwelcome government attention. At year's end, the congressional committee discussing the new Telecommunications Law, which had proposed creation of a media regulatory commission, still was studying the draft law submitted by the executive branch to the Congress.

A few journalists and media outlets reportedly were intimidated physically during the year. According to the National Journalists Association (ANP), 12 cases of harassment were reported through August, most of which took place in the provinces. The majority of these incidents took the form of threats of violence; initiation of or threats of judicial proceedings; and charges of slander from local politicians, police, military officials, or businessmen. For example, on February 4, the ANP strongly criticized a series of verbal attacks on journalists by public officials, many of whom were linked to either former President Fujimori or former *de facto* intelligence chief Montesinos. In the case of Alberto Pintado Villaverdo in Bagua Grande, municipal officials allegedly have threatened the journalist because of his criticism of official corruption in the mayor's office.

In February the Inter-American Press Association (IAPA) awarded the Chapultepec Grand Prize to former Human Rights Ombudsman Jorge Santiestevan for his support of freedom of expression. The IAPA also met with President Paniagua, members of Congress, and Supreme Court justices in an open forum with journalism and law students to discuss press freedom issues.

The Government does not censor books, publications, films, or plays, and does not limit access to the Internet.

The Government did not restrict academic freedom during the year.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the authorities generally respect this right in practice. The police used tear gas and occasionally force to disperse protesters in various demonstrations during the year. The law does not require a permit for a public demonstration; however, organizers must inform the Ministry of Interior's political authority (Prefect) about the kind of demonstration and its location. Demonstrations may be prohibited for reasons of public safety or health. Municipal authorities routinely granted permission for demonstrations.

Political rallies were unimpeded throughout the campaign process. There were two incidents of violence targeted at one presidential candidate, Lourdes Flores of the National Unity Party, as she campaigned in La Victoria (Lima) and Iquitos. The police managed each situation and maintained control over the crowd without using violence.

Demonstrations during the year were mostly peaceful. There were protests by workers asking for higher wages and demonstrations by disgruntled citizens pressing various social and economic demands. According to labor advocates, groups were able to express their opinions publicly, while the National Police generally maintained order in a lawful manner. Police occasionally used tear gas against protesters and only detained a few participants in demonstrations.

The Constitution provides for freedom of association, and the authorities generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Catholic Church receives preferential treatment from the State. The Constitution establishes the separation of church and state; however, it also acknowledges the Catholic Church's role as "an important element in the historical, cultural, and moral development of the nation." The State thus maintains a close relationship with the Catholic Church and grants it a privileged status. The Catholic Church and Catholic clergy receive preferential treatment and tangible benefits from the State in the areas of education, taxation of personal income, remuneration and taxation of institutional property. Teaching about Roman Catholicism in primary and secondary schools is mandatory. By law, the military may hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel.

All faiths are free to establish places of worship, train clergy, and proselytize. Religious denominations or churches are not required to register with the Government or apply for a license. Conversion from one religion to another is allowed, and missionaries may enter the country and proselytize.

All work-related earnings of Catholic priests and bishops are exempt from income taxes. Real estate, buildings, and houses owned by the Catholic Church are exempt from property taxes. The country's 52 Catholic bishops, as well as priests whose ministries are located in towns and villages along the country's borders, receive state remuneration in addition to the compensation paid them by the Catholic Church. Each diocese receives a monthly institutional subsidy from the Government. The Freedom of Conscience Institute (PROLIBCO), an NGO that favors strict separation between church and state and opposes the preferential treatment accorded to the Catholic religion, claims that the Government discriminates against non-Catholic groups by requiring payment of import duties and a sales tax on Bibles brought into the country. In May the Jehovah's Witnesses claimed that the Government denied them tax exemption for imported Bibles and other religious educational materials.

Catholic religious teaching is part of curriculum of public and private primary and secondary schools. Since 1977 public primary and secondary schools have offered only teaching about Catholicism, although some non-Catholic private schools provided non-Catholic religion courses. In 1998 the Government issued an executive order that mandates that all schools, public and private, must offer religious instruction as part of their education "without violating the freedom of conscience of the students, parents, or teachers." The Ministry of Education requires all primary schools, both public and private, to follow a set Catholic religion course. In 1999 the Education Ministry issued a directive to implement a 1998 decree that made it mandatory for school authorities to appoint religious education teachers, upon individual recommendations and approval by the presiding bishop of the local diocese. Most schools devoted 1 hour a week to such study.

Parents who do not wish their children to participate in the mandatory religion classes must request an exemption in writing to the school principal. Such requests are granted infrequently. Non-Catholics who wish their children to receive a reli-

gious education in their own faith are free to organize such classes, at their own expense, during the weekly hour allotted by the school for religious education, but must supply their own teacher. PROLIBCO objects to the requirement to teach the Catholic religion in the school curriculum, and claims that the alternatives available to non-Catholic parents violate the constitutional protection of privacy and confidentiality of one's convictions and beliefs. Approximately 90 persons from various non-Catholic churches, led by PROLIBCO, challenged this education practice before the Supreme Court and lost the case in December 2000. In May PROLIBCO presented its case before the IACHR.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right of free movement; however, the authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police may check travelers at control points throughout the country. There are no other political or legal constraints on foreign travel or emigration. Repatriates, both voluntary and involuntary, are not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest."

Sendero Luminoso occasionally interrupts the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley and the Apurimac and Ene River Valleys.

Political violence in the 1980's and early 1990's resulted in the internal displacement of hundreds of thousands of persons and massive migration. Despite government and NGO efforts, many internally displaced persons (IDP's) lack basic documentation, such as birth certificates and voter registration cards. The Government's program for the Repopulation and Development of Emergency Zones (PAR) provides documentation that can be used both to request PAR assistance to return to one's community of origin and to apply for a national identity card.

Another unresolved problem related to the IDP's are pending arrest or detention orders against more than 4,000 persons allegedly forced to join terrorist groups or accused falsely of voluntarily joining such groups. On May 18, Congress passed a law that allowed the detention orders to be changed to summonses to appear in court if requested by the person named in the order; however, as of September, only one such order had been changed (see Section 1.d.).

The law includes provision for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees in granting asylum and refugee status and recognizes the Catholic Migration Commission as the official provider of technical assistance to refugees and applicants for asylum. The commission also advises citizens who fear persecution at home and seek asylum abroad. As of year's end, the Catholic Migration Commission reported that the Government had recognized 72 individuals as new refugees. There were 793 refugees in the country. Refugees are allowed to live and work without restrictions and can apply for naturalization. The status of refugees is reviewed annually. The question of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for the right of citizens to change their government peacefully. Following seriously flawed and controversial elections in April and May 2000, in September 2000 President Fujimori announced that he would exercise his constitutional power to convoke new national elections, to be held in April, and in which he would not be a candidate. In November 2000, Congress removed President Fujimori for "moral incapacity," and President of Congress Valentin Paniagua succeeded to the presidency. In July President Alejandro Toledo assumed the presidency following a peaceful transfer of power through generally free and fair national elections held in April and June. Voting is by secret ballot and mandatory for citizens between the ages of 18 and 70; however, members of the armed forces and the police, as well as felons, are ineligible to vote. The law bars groups that advocate the violent overthrow of the Government from participating in the political process.

In December 2000, the 120-member Congress approved the creation of multiple district representation for electing members to Congress, which was designed to provide better geographic representation. The legislature functions independently from the executive. After the April elections, the party breakdown in Congress was 45

seats, Peru Posible; 28 seats, APRA; 17 seats, Unidad Nacional; 13 seats, Decentralized Parliamentary Union; 11 seats, Independent Moralizing Front (FIM); 3 seats, Cambio 90-Nueva Mayoria; and 1 seat each for Solucion Popular, Renacimiento Andino, and Todos Por La Victoria. The length of a term in Congress is 5 years.

The Constitution establishes three bodies to administer elections: The National Board of Elections (JNE); the National Office of Electoral Processes (ONPE); and the National Registry of Identification and Civil Affairs (RENIEC). The JNE sets the legal parameters and rules on election-related disputes and challenges. The ONPE administers elections and the RENIEC issues election identity documents. Some observers voiced complaints about procedural problems related to administration of the electoral process and tabulation of ballots.

Many national and international observers considered that the presidential elections held in April and May 2000 had been manipulated in favor of then-President and candidate Alberto Fujimori. The democracy dialog sponsored by the Organization of American States (OAS), which began in response to these elections and intensified after former President Fujimori's resignation, officially ended in January when OAS Secretary General Cesar Gaviria dissolved the talks. In November 2000, President Paniagua issued a directive to state institutions, government officials, and the armed forces telling them to help foster neutrality by refraining from political involvement.

On April 8, first round presidential elections as well as congressional elections were held; observers found them to be generally free and fair. The local civic association Transparencia considered that campaign press coverage was balanced and that access to the media was generally open (see Section 2.a.). No presidential candidate received more than the 50 percent of the popular vote required to win in the first round (Peru Posible won 36.51 percent; APRA won 25.78 percent; Unidad Nacional won 24.3 percent; FIM won 9.85 percent; and four other political groups received less than 2 percent each). The top two candidates, Alejandro Toledo and Alan Garcia, advanced to the presidential runoff election that was held on June 3. The ONPE released more than 90 percent of the election results by April 11. Final results were released a month later, due to delays in resolving objections and complaints. The majority of complaints concerned the congressional election, and many were related to mistakes by poll workers filling out the vote tally sheets on election night. There were more than 20,000 complaints nationwide, a number that is fairly consistent with previous elections in the country. However, it took longer than normal for the complaints to be resolved, due in part to a lack of standardized procedures at the Special Electoral Tribunals, which are regional branches of the JNE.

The second round presidential elections were held under the observation of national and international election monitors. Transparencia, the National Democratic Institute/Carter Center, the OAS, European Union representatives, and other monitors stated that they found both rounds of the national elections to be generally free and fair.

On June 12, the ONPE reported the following final results of the second round presidential election: Alejandro Toledo of Peru Posible, 53.08 percent and Alan Garcia of APRA 46.92 percent. Blank and null votes did not make up a significant percentage of the votes in the second round.

During the elections process, the Constitutional Tribunal ruled that an electoral law provision banning the dissemination of exit poll results before 10:00 p.m. on election day (6 hours after the polls closed) restricted the public's right to information (see Section 1.e.).

In July the Judicial Branch reopened the investigation into the falsification of over 1 million voter signatures that occurred during the 2000 elections. The authorities brought charges against Jose Portillo, former chief of ONPE, for election fraud in relation to the falsified signatures. At year's end, the trial was under way.

Also in July, the Congress modified the election law. The percentage of signatures required for the registration of a new political party was reduced from 4 percent to 1 percent of the voters who participated in the past election. The modified law prohibits reelection of a president to successive terms.

During the year, the Government investigated political abuses, and, by October, some 85 persons were under indictment on charges relating to corruption and abuse of authority. However, some individuals associated with President Fujimori have faced investigations under circumstances that suggest political motivations. On August 17, Congress removed two members of Congress who had been loyal to Fujimori—Luz Salgado and Carmen Lozada—after the release of a videotape of a meeting in which they voiced no objection to a conspiracy to undermine the integrity of a state institution. They were removed on grounds that they failed to abide by their oath of office to uphold the Constitution. In a vote requiring only a simple majority, the Congress voted to unseat the veteran legislators and, in effect, prohibit

them from holding office for 10 years. The two argued that their removal from Congress disfranchised the voters who had elected them, and that the behavior they were charged with is not a crime. They were replaced by the next two legislators on their party's list, ordered by number of votes received in the election.

In September another congressional committee initiated proceedings to charge several ministers of Fujimori's administration with treason for endorsing various secret resolutions under which substandard arms were purchased, although the ministers otherwise appeared to have had no vote in the acquisitions and not to have personally benefited. Treason carries up to a life sentence.

Women and some minorities participate actively in government and politics; however, the percentages of women and minorities in government or politics do not correspond to their percentages of the population. A 2000 law states that at least 30 percent of each party's ballot for congressional elections, and at least 25 percent of candidates for municipal elections, must be female. In April voters elected 22 women to the 120-member Congress; there were 26 women in the previous Congress. There is 1 woman in the 16-member cabinet, the Attorney General is a woman, and there is 1 woman on the Supreme Court.

Traditionally, most leadership positions in government have been held by an elite minority of European descendants. President Toledo is the country's first elected president who comes from mixed Caucasian and indigenous ancestry. However, it is rare for indigenous persons, who make up more than one-third of the population, to hold high public office. After the elections, one member of the Aymara indigenous group served in Congress and was elected as the head of the Committee for Indigenous and Afro-Peruvian Affairs.

One cabinet minister is of Chinese descent. The Afro-Peruvian minority, unofficially estimated to be 3 to 5 percent of the total population, is not represented in the leadership of the executive branch of the Government. There are three Afro-Peruvian members of Congress.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government permitted numerous NGO's dedicated to monitoring and advancing human rights to operate freely; unlike in previous years, these groups reported no harassment or other attempts by the authorities to hinder their operations.

Most human rights NGO's are independent and generally objective. The National Coordinator for Human Rights (Coordinadora) is an umbrella organization for more than 60 human rights NGO's. The Coordinadora seeks to avoid politicizing its positions on human rights issues, although its constituent members may do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operate independently or on the margins of the Coordinadora.

The human rights community reported that the Paniagua and Toledo administrations began improving government-civil society relations. Paniagua's cabinet included several former NGO leaders. Paniagua and Toledo named human rights advocates, including the head of the Coordinadora, as members of the Truth and Reconciliation Commission. Unlike in previous years, government officials did not accuse NGO's or the IACHR of being overprotective of criminals and terrorists to the detriment of victims.

According to COMISEDH, military commanders often did not grant access to military facilities to local and international human rights monitors. In December 2000, the Human Rights Ombudsman's office was granted access to the Callao facility for the first time. The Ombudsman's office continued to have access to the prison at the Callao naval base, as well as other facilities during the year (see Section 1.c.). Not all government facilities provide access to the public; NGO's may work through the Ombudsman's office for information regarding a military facility.

The Office of the Human Rights Ombudsman receives funds from the Government and foreign governments and is considered an independent and effective institution. Congress votes to select the Ombudsman, who must receive at least a two-thirds majority of votes and serves a 5-year term. At year's end, there was an interim Ombudsman as the former Ombudsman left office in December 2000 to run (unsuccessfully) for president in the April elections. The Ombudsman's office has investigative independence and the ability to inform the public of its conclusions and recommendations. However, the office has no enforcement mechanism other than moral suasion. The Ombudsman's office issued reports throughout the year on the elections (see Section 3), the activities of the ad hoc Pardons Commission, the status of 4,000 unresolved disappearance cases, women's rights, and an annual report on the overall human rights situation, among others.

In February the country returned to the jurisdiction of the Inter-American Court of Human Rights. In July 1999, the Fujimori Government withdrew from the Court after the Court determined that the Government failed to provide due process in the case of four Chileans convicted of treason by a military tribunal (see Section 1.e.).

In June President Paniagua established a Truth Commission to consider human rights violations committed by government security forces and armed insurgency groups over the past 20 years. The armed forces pledged their support for the commission. In July President Toledo offered full support to the Commission, renaming it the Truth and Reconciliation Commission. President Paniagua had appointed seven members to the Commission and President Toledo appointed five additional members. The members are from various academic, religious, political, military, and human rights backgrounds. Members of the local human rights community criticized the selection of some commissioners, including a member of Congress who was close to former President Fujimori, and another who has a family member who is involved with Sendero Luminoso. After a 90-day internal organization period, the Commission began its work on November 13. The Commission plans to present its final report on February 13, 2003.

The Truth and Reconciliation Commission has a mandate to analyze the political, social, and cultural conditions that fostered an era of violence between May 1980 and November 2000, during which more than 25,000 persons were killed and an estimated 6,200 persons disappeared. The Ombudsman is expected to continue to gather and present evidence on other cases to the Commission. The Commission also is to clarify abuses of human rights committed by terrorists and the State; locate the victims or their remains; determine individual or institutional responsibility for these violations; propose a system of reparations for the victims' families; recommend institutional, legal, and educational reforms; and propose initiatives designed to advance peace, the rule of law, national reconciliation, and democracy. The Commission has no authority to prosecute alleged perpetrators.

In 2000 unknown persons burglarized the offices of two NGO's—COMISEDH, and Peace and Hope. COMISEDH reported that there was an investigation, but that there was insufficient evidence to make a case and no charges ever resulted in relation to the theft of computers from its offices.

There were no reports of Sendero Luminoso hampering the work of human rights monitors.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal rights for all citizens, and specifically prohibits discrimination based on ethnic origin, race, sex, language, religion, opinion, or economic condition. However, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persists, although progress is being made in a number of areas.

Women.—Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls, is a chronic problem. Such abuses are aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims. A National Institute of Statistics and Information (INEI) survey reported that during 2000 at least 41 percent of women were battered by their partner, and that 16 percent of those women were battered frequently. PROMUDEH and NGO's agree that many domestic abuse cases are never reported. Although official figures for the number of arrests and convictions in abuse cases are unavailable, NGO sources contend that the majority of reported cases do not result in formal charges due to fear of retaliation from the accused spouse, or because of the cost involved in pursuing a complaint. In addition, legal and physical protection is limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

The domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. In March 2000, Human Rights Watch called on the Government to improve legislation on domestic violence by eliminating mandatory conciliation sessions between victims and abusers, and by providing law enforcement and social service providers with training to improve their sensitivity to victims' needs. In January Congress approved a law that states that conciliation sessions between the abuser and victim are not required in cases of domestic violence. In June 2000, the Government enacted legislation that expanded the definition of domestic violence to include sexual violence, and to include all intimate partners whether or not the victim and perpetrator have ever lived together.

The Ministry of Women's Advancement and Human Development (PROMUDEH) runs the Women's Emergency Program to call attention to the legal, psychological, and medical problems facing women and children who were victims of violence. PROMUDEH operates 34 centers, staffed entirely by women, which bring together representatives of all government institutions—police, prosecutors, counselors, and public welfare agents—to which abused women might have recourse. During the year, the centers each saw about 300 victims of domestic violence and abuse each month. PROMUDEH continued its public education campaign to sensitize government employees and the public to domestic violence. With NGO assistance, PROMUDEH educates police about domestic violence and trains officers in all police stations in processing domestic violence cases. The Human Rights Ombudsman's Office continued to complain that officers react indifferently to charges of domestic violence, even though the law requires all police stations to receive such complaints.

According to the Human Rights Ombudsman, many rape victims complain that court-appointed medical examiners inappropriately delved into their past sexual histories. The victims also have accused judges of looking more favorably on rape victims who were virgins prior to the rape and of believing that a woman who was raped must have enticed her attacker. Many victims are afraid of personally filing a complaint of sexual abuse, particularly in cases where the perpetrators were police officers.

Prostitution is legal, but the law prohibits and sanctions activities of those who would obtain benefits from prostitution, such as pimping.

There is no law prohibiting sexual harassment, and sexual harassment is a problem, according to the Ombudsman's office.

Unlike in previous years, the Ombudsman's office received no complaints of abuses committed by family planning personnel during the year; however, there were isolated reports that women were not given the full 72-hours to consider alternatives, as is required by law, before undergoing voluntary sterilization procedures. This is generally attributed to the fact that some women arrive at a clinic ready to give birth and request that the sterilization procedure be performed that day, rather than having to make arrangements to return to the clinic at another time (see Section 1.f.).

The Constitution provides for equality between men and women, and 95 amendments to the Employment Promotion Law, as well as other laws relative to marriage, divorce, and property rights, prohibit discrimination against women. Racial and sexual discrimination in employment advertisements or announcements of educational training opportunities are prohibited; however, they continue to occur in practice. In June the Constitutional Tribunal declared unconstitutional a 1998 law that stripped 3,000 policewomen of their ranks as officers. The law prohibits the arbitrary firing of pregnant women.

Traditional assumptions and misconceptions often impede access by women to leadership roles in both the public and private sectors. Due to societal prejudice and discrimination, women historically have suffered disproportionately from the country's pervasive poverty and unemployment.

Children.—The Government provides free, compulsory education through secondary school. Education is generally available throughout the country. However, largely because of widespread poverty, approximately one-third of all school-age children and adolescents work during daytime hours rather than attend school. Approximately 6 percent of children between the ages of 6 and 12, and 17 percent of adolescents between the ages of 12 and 17, either never have attended school or have abandoned their education. Among children and adolescents who live in poverty or extreme poverty, the corresponding figures are 51 percent for children ages 5 to 9 years old and 49.9 percent for children age 10 to 14. School nonattendance is highest in rural and jungle areas and affects girls more than boys. Pregnant school-age girls have the right to begin or continue attending school.

An INEI survey conducted during 2000 estimates that nearly 70 percent of the country's 10 million children under 18 years of age live in poverty; of them, roughly 20 percent live in extreme poverty. The survey indicates that 48 percent of urban and 62 percent of rural school-aged children suffer from malnutrition, and almost 50 out of every 1,000 children die before age 5. The infant mortality rate is 39 per 1,000. According to INEI, approximately 75 percent of children not living in poverty attend school through the high-school level, whereas, only 43 percent of children living in poverty reach high school. Children living in poverty average only 4.5 years of education compared to 9.3 years for children living above the poverty line. Only 1.2 percent of children living in extreme poverty attain university-level education, compared with 25.6 percent of children who live above the poverty line.

PROMUDEH's Children's Bureau coordinates child and adolescent related government policies and programs. At the grassroots level, 1,010 Children's Rights and

Welfare Protection Offices receive and resolve complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operate approximately 55 percent of these offices, while schools, churches, and NGO's run the remaining 45 percent. Law students staff most of the units; only the offices in the wealthiest districts of the country have professionally trained lawyers, psychologists, and social workers. When these offices cannot resolve cases, officials typically refer them to the local prosecutors' offices of the Public Ministry. Settlements adjudicated by these offices are binding legally and have the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children are serious problems. The INEI survey showed that an estimated 41 percent of parents abuse their children. In rural areas, this figure increases to 55 percent. The Municipal Ombudsman's Office for Children and Adolescents for Lima and Callao documented 586 sexual assaults against children 5 years of age and under; 2,937 against children aged 6 to 12; and 5,935 against children aged from 13 to 17 that occurred during 2000. The report confirmed that 70 percent of the assaults occur in the home by a relative or someone known to the victim and the victim's family. According to NGO's, many abuse cases are never reported to the authorities, since many persons believe that such problems belong within the family and should be resolved privately. PROMUDEH's Women's Emergency Program works to address the legal, psychological, and medical problems facing women and children who are victims of violence.

Although laws exist that prohibit sexual abuse of minors and police enforce such laws, there continued to be reports of child prostitution.

Street crime committed by children and adolescents, including robbery, physical assault, and vandalism, is often gang-related. The Government rescinded laws that allow 16- to 18-year-old criminal gang members to be prosecuted in military courts and sentenced to a minimum of 25 years in adult prisons (see Section 1.e.).

Child labor is a serious problem (see Section 6.d.).

The National Initiative on the Rights of the Child is the largest NGO of its kind and coordinates the work of 27 groups concerned with the problems of children throughout the country.

Persons with Disabilities.—The Constitution provides that persons with severe disabilities have “the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security.” Legislation that established the National Council for the Integration of People with Disabilities specifies rights, allowances, programs, and services. The law prohibits discrimination, mandates that public spaces be barrier-free and that buildings be architecturally accessible, and provides for the appointment of a disability rights specialist in the Human Rights Ombudsman's office. However, in practice the Government devotes little attention and resources to persons with disabilities, and they remain economically and socially marginalized.

The Government does not allocate sufficient funds to make genuine integration of persons with disabilities into the economy possible. However, during the year Congress increased the annual budget allocated to integrate persons with disabilities into the economy from \$250,000 to \$457,000. Although the law prohibits discrimination in the workplace, it is vague regarding the source of funds to pay for the human assistance, technological support, and environmental adaptations that often are necessary to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally must rely on public charity and on funding from international organizations.

The 1993 census counted 288,526 persons with disabilities, or 1.3 percent of the population; however, during the year, the Ministry of Health and the Pan American Health Organization estimated that the actual number of persons with disabilities could be as high as 3 million, or 13.8 percent of the population.

Although construction regulations mandate barrier-free access by persons with physical disabilities to public service buildings, no effort has been made to implement this provision. There are no accommodations, such as interpreters for the deaf in government service offices and Braille or recorded versions of the Constitution, which would facilitate the participation of persons with disabilities in the basic processes of democracy and citizenship. However, the Human Rights Ombudsman reported that a program to facilitate voter education and access for persons with disabilities during the elections was successful.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually work. Among those who do, many have been channeled into occupations traditionally assumed to be “suitable” for persons with disabilities, such as telephone switchboard operation and massage, in the case of the blind. Some private companies have initiated programs to hire and train per-

sons with disabilities, and a private foundation provides small loans to persons with disabilities to start up businesses. Nevertheless, such persons faced discrimination by potential employers. For example, the statute governing the policies and procedures of the judicial branch specifically prohibits the blind from serving as judges or prosecutors, a provision that the National Judiciary Council has interpreted to apply to all persons with disabilities.

Indigenous People.—The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language; however, the large population of indigenous persons still faces pervasive societal discrimination and social prejudice. Many factors impede their ability to participate in, and facilitate their deliberate exclusion from, decision making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the 1993 Constitution and subsequent implementing legislation are less explicit about the inalienability and unmarketability of native lands than earlier legislation. Pervasive discrimination and social prejudice intensify feelings of inferiority and second-class citizenship. Many indigenous persons lack basic documents such as a birth certificate or a voter's registration card that normally would identify them as full citizens and enable them to play an active part in society.

Many other factors also contribute to the marginalization of indigenous people in society. Poor transportation and communications infrastructure in the highlands and in the Amazon jungle region makes political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limit the access and participation of indigenous people in society.

The native population of the Amazon region, estimated at between 200,000 and 300,000 persons, faces pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the native communities have a spiritual relationship with their land, and the concept of land as a marketable commodity is alien to them. Nevertheless, according to the director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this native population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some nonindigenous tenant by right of tenure. However, the marketing and sale of the lands are no longer prohibited.

Indigenous groups continue to resist encroachment on their native lands by oil exploration and drilling interests. Many indigenous persons do not have title to the land on which they live. For those who do, there exists the problem that title to land does not include mineral or other subsoil rights; this condition could lead to conflicts between mining interests and indigenous communities. Indigenous groups assert that such encroachment often can damage the environment and negatively affect the health of the native people. For example, the 45,000 Aguaruna and the Huambisa, who inhabit an area near the border with Ecuador, are only two of many indigenous groups that complain about intolerable living conditions and inaccessible public services. In the same region, along the Pastaza River, the 4,700 members of the Achuar people live in 36 communities, only 12 of which have title to their land.

Persons of indigenous descent who live in the Andean highlands speak Aymara and Quechua, recognized as official languages. They are ethnically distinct from the diverse indigenous groups that live on the eastern side of the Andes and in the tropical lowlands adjacent to the Amazon basin.

The Government's Indigenous Affairs Commission has a mandate to coordinate state services to meet the needs of indigenous people. The Commission, which is chaired by PROMUDEH, has among its members officials from a variety of relevant ministries as well as four representatives of the indigenous peasant population in the highland and coastal areas and the native population of the Amazon jungle. In 1999 Congress created an Indigenous Affairs Committee, currently chaired by Paulina Arpasi, a woman of the Amayra community.

President Toledo is the country's first elected president who comes from mixed Caucasian and indigenous ancestry.

The two principal NGO's that represent the interests of the native population of the Amazon region are the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDSESEP) and the Confederation of Amazonian Nationalities of Peru (CONAP). Both organizations joined the Permanent Conference of Indigenous Peoples, an umbrella body that coordinates the activities of the country's indigenous population. CONAP believes that mining and other development operations are inevitable and, therefore, wants native communities to share appropriately the benefits. AIDSESEP opposes territorial encroachments. Both AIDSESEP and CONAP are critical of the 1995 land law, which permits Amazonian land to be bought and sold if no one is living on it or otherwise making use of it.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. Isolated primarily along the Ene River in Junin department, the terrorist group continued to coerce indigenous peasants into joining its ranks and to demand war taxes.

National/Racial/Ethnic Minorities.—In December 2000, Congress passed legislation that made racial discrimination a crime, with penalties varying from 30 to 60 days of community service. However, for public officials the sentence is between 60 and 120 days of community service; they also are disqualified from holding public office for 3 years. The country's population includes several racial minorities, the largest of which are persons of Asian and African descent. Afro-Peruvians, who tend to be concentrated along the coast, often face discrimination and social prejudice, and they are among the poorest groups in the country.

Afro-Peruvians generally do not hold leadership positions in government, business, or the military; however, there are three Afro-Peruvian members of Congress. Both the navy and the air force are believed widely to follow unstated policies that exclude blacks from the officer corps. The law prohibits newspaper employment advertisements from specifying the race of the candidates sought, but employers often find discreet ways to relegate blacks to low-paying service jobs. The law prohibits various forms of discrimination by retail establishments against prospective customers. However, the law has not deterred significantly discriminatory practices.

According to two organizations specializing in the rights of persons of African descent, police continue to detain persons of African descent on suspicion of having committed crimes, on the basis of their skin color. Similarly, police rarely act on complaints of crimes against Afro-Peruvians. Afro-Peruvians are often portrayed unflatteringly by the entertainment industry as individuals of questionable character.

Although Peruvians of Asian descent historically have suffered discrimination, their social standing has improved markedly as the country has sought to emulate Asia's earlier economic growth and as the Asian community achieved financial success. Many persons of Asian descent hold leadership positions in business and government.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the law provide for the right of association; however, worker rights advocates claim that the laws are overly restrictive. About 5 percent of the formal sector workforce of 8.5 million belong to organized labor unions. It is estimated that close to half of all workers participate in the informal sector of the economy. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers are not required to seek authorization prior to forming a trade union, nor may employers legally condition employment on union membership or nonmembership. However, groups including the International Confederation of Free Trade Unions (ICFTU) assert that laws promulgated by the Fujimori administration in 1992, as well as provisions included in the 1993 Constitution, fail to protect the rights of workers to form unions. Labor advocates claim that many workers are reluctant to organize due to fear of dismissal.

According to the International Labor Organization (ILO), several aspects of the labor law are not consistent with the international standard of freedom of association. The ILO has criticized specifically a provision that permits businesses to employ up to 30 percent of their workforce from workers between the ages of 16 to 25; workers in this age bracket are precluded from union membership and participation. As of year's end, the Government had enacted no legal changes.

In December 2000, President Paniagua established a tripartite National Labor Council for the Government, workers, and business to address labor problems. In September President Toledo reinstalled the National Labor Council and opened two regional councils, one in Arequipa and one in Cusco, to address labor issues unique to each region.

Unions represent a cross section of political opinion. Although some unions traditionally have been associated with political groups, the law prohibits unions from engaging in explicitly political, religious, or profit-making activities. Union leaders who ran for Congress in the elections did so without official union sponsorship. Nevertheless, some union activists who run for public office receive unofficial backing from their unions.

The ILO has requested modifications to the laws that regulate the right to strike, including a requirement that a majority of workers in an enterprise, regardless of union membership, must vote in favor of any strike. Official strikes require secret ballot approval by a majority of all workers in a company, whether union members or not; labor activists find the requirement to be onerous. A second vote must be

taken, if at least 20 percent of the workers petition it. However, labor rights advocates complain that many workers are reluctant to participate even in secret ballots, due to fear of employer retaliation, particularly since a full list of workers who attend meetings in which such votes are taken must be submitted to management. Strikes may only be called in defense of labor rights.

There were numerous peaceful strikes and work stoppages during the year. The Government took no actions to prevent the strikes or to reprimand participants. There were confrontations between union-affiliated protesters and police. No abuses were reported when the police removed roadblocks set up by protesters.

The law restricts unions that represent workers in public services deemed essential by the Government from striking. However, there were strikes during the year, including strikes by public workers.

There are no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belong to international labor organizations such as the ICFTU, the international trade secretariats, and regional bodies.

b. The Right to Organize and Bargain Collectively.—The Constitution recognizes the right of public and private sector workers to organize and bargain collectively; however, it specifies that this right must be exercised in harmony with broader social objectives. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. The regulations prohibit probationary, apprentice, and management employees from union membership. The law does not prohibit temporary employees from joining a union, but they may not join the same union as permanent workers.

According to the regulations, union officials must be active members of their union, but the number of individuals each union may designate as “official” is limited, as is the amount of time they may devote to union business on company time. The Labor Code requires employers to reinstate workers or compensate financially those whom companies have fired for union activities. It is illegal to fire workers for union activities, although reports from labor activists indicate that this is a common practice. The labor movement criticizes the amended Employment Promotion Law, which it asserts makes it easier for employers to dismiss employees and thereby to impede the right of workers to bargain collectively. There are no legal restrictions that prevent unions from negotiating for higher levels of worker protection than the baseline standards provided for by law.

A union must represent at least 20 workers in order to become an official collective bargaining agent. Representatives may participate in collective bargaining negotiations and establish negotiating timetables. Management negotiating teams may not exceed the size of union teams, and both sides are permitted to have attorneys and technical experts present as advisers.

In November 2000, the ILO’s Committee of Freedom of Association recommended that the Government enforce legislation protecting workers from dismissal on account of membership in a union or participation in union activities. The Government has taken no action on this request.

The main union confederations criticize the Employment Promotion Act, amended in 1995 and 1996, for restricting the rights of workers, including the freedom of association. Unions also complain that the law eliminates the right of dismissed workers to compulsory reinstatement if they prove that employers dismissed them unjustly. In practice, companies offer financial compensation instead of reinstatement as the legislation allows. Although the law prohibits companies from firing workers solely for involvement in union activities, this provision has not been enforced rigidly. There is no legal protection against employer interference in trade unions.

Labor regulations permit companies unilaterally to propose temporary changes in work schedules, conditions, and wages, and to suspend collective bargaining agreements for up to 90 days, if obliged to do so by worsening economic circumstances or other unexpected negative developments, provided that they give their employees at least 15 days’ notice of such changes. However, worker rights advocates allege that, in practice, few employers respected this provision. If workers reject an employer’s proposed changes, the Ministry of Labor is required to resolve the dispute based on criteria of “reasonableness” and “economic necessity.” Whether the changes proposed by employers in such instances are upheld in full or in part, employers are required to adopt all possible measures, such as the authorization of extra vacation time, in order to minimize the negative economic impact on their employees.

Although a conciliation and arbitration system exists, union officials complain that their proportionate share of the costs of arbitration often exceeds their resources. In addition, union officials claim that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers “temporarily” to prevent increases in the number of union

members. Although the law restricts the number of temporary workers hired to 20 percent of a company's work force, worker rights advocates allege that this quota rarely is respected. Employers deny that they are biased against unions, and argue that the labor stability provisions of the legislation have made long-term commitments to workers too expensive.

There are four export processing zones (EPZ's). Special regulations aimed at giving employers in EPZ's and duty free zones a freer hand in the application of the law provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand. As a result, workers in such zones have difficulty unionizing. Worker rights advocates admit that these zones are few in number and do not contribute substantively to labor's unionizing difficulties.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, and there were no reports of forced labor during the year. The law specifically prohibits forced or bonded labor by children. According to PROMUDEH and the Ministry of Labor, there were no reports of forced child labor. Forced labor previously was found in the gold mining industry in the Madre de Dios area; however, the changing nature of the industry and government efforts to regulate it seem to have addressed the problem. NGO sources and the ILO reported in 1999 that mechanization largely has replaced manual labor, and the Ministry of Labor inspection programs helped deter illegal child labor in this industry.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Child and Adolescent Code of 1992 governs child and adolescent labor practices and restricts child labor based upon the age of the child, hours worked, and occupation; however, child labor is a serious problem. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs if they obtain special permission from the Ministry of Labor and certify that they also are attending school. In August the Ministry reported that 2,228 of these requests for permission to work have been approved. In certain sectors of the economy, higher minimums are in force: age 14 in agricultural work; age 15 in industrial, commercial, or mining work; and age 16 in the fishing industry. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others; night work; or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school. As many as 1.9 million children work primarily in the informal sector to help support their families. Of this total, NGO's estimate that some 600,000 children are under the age of 12.

Human and labor rights groups criticized the modification of the Child and Adolescent code, passed in August 2000, that maintained the minimum age for work at 12 years old (with permission), and argued that it contradicts international guidelines on the minimum age of child workers. On May 10, Congress ratified ILO Convention 138 on the minimum working age. In October Congress ratified ILO Convention 182 on elimination of the worst forms of child labor.

Many children are pressed to help support their families from a very early age by working in the informal economy, where the Government does not supervise wages or working conditions. Other children and adolescents work either in formally established enterprises or as unpaid workers at home. There are reports of child prostitution (see Section 5).

Adolescents must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. Adolescents may only work a certain number of hours each day: 4 hours for children ages 12 through 14, and 6 hours for children ages 15 through 17. Adolescent employment must be remunerated in accordance with the principle of equal pay for equal work. In practice, the Child and Adolescent Code provisions are violated routinely in the informal sector. Child and adolescent laborers work long hours in the agricultural sector. Other children reportedly are employed at times in dangerous occupations or in high-risk environments, such as informal gold mining, garbage collection, loading and unloading produce in markets, brick making, coca cultivation, or work in stone quarries and fireworks factories, among others. Some child and adolescent labor tends to be seasonal.

Firms found guilty of violating child labor laws can be fined and operations suspended. The Ministry of Labor's inspectors have legal authority to investigate reports of illegal child labor practices. Inspectors conduct routine visits without notice to areas where child labor problems are reported. Inspectors maintain contact with a wide variety of local NGO's, church officials, law enforcement officials, and school officials. The Ministry reports that there are a total of 150 labor inspectors, of which

65 work in Lima. These inspectors conduct all labor inspections, both for adults and children. Labor inspections are primarily conducted in the formal sector. The National Police and local prosecutors exercise law enforcement authority. The Children's Rights Defender reports to PROMUDEH.

The Constitution does not prohibit specifically forced or bonded labor by children, although there are laws that prohibit this practice, and there were no reports that it occurred (see Section 6.c.).

e. Acceptable Conditions of Work.—The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a “just and sufficient” wage to be determined by the Government in consultation with labor and business representatives, as well as “adequate protection against arbitrary dismissal.”

In March 2000, the Government raised the statutory minimum wage from \$117 (410 soles) a month to \$128 (450 soles), which is not considered sufficient to provide a decent standard of living for a worker and family. The Government estimates the poverty line to be approximately \$45 (157 soles) a month per person. However, this figure varies from region to region. According to some estimates, as much as half the work force earns the minimum wage or below, because such a great proportion work in the informal sector, which is largely unregulated. The Ministry of Labor is responsible for enforcing the minimum wage.

In April Congress passed legislation that increased the Labor Ministry's ability to enforce compliance with laws requiring businesses to pay social security and other benefits.

The Constitution provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. In addition, it prohibits discrimination in the workplace, although discrimination continued to be a problem in practice. A Supreme Decree states that all workers should work no more than 8 hours per day; however, in practice labor advocates state that workers are pressured to work longer hours to avoid dismissal.

While occupational health and safety standards exist, the Government lacks the resources to monitor firms or enforce compliance. Labor advocates continued to argue that the Government dedicates insufficient resources to enforce existing legislation. The Ministry of Labor employs a force of 150 inspectors to carry out unannounced visits throughout the country. In September the Minister of Labor announced that 80 percent of the companies inspected were found to be in compliance with labor laws. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases.

When firms are found to be in violation of the law, the Government sanctions them with fines or, in some cases, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually is determined by agreement between the employer and the individual involved. The worker does not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

f. Trafficking in Persons.—A 1999 law prohibits trafficking in persons and alien smuggling, which is defined as promoting, executing, or assisting in the illegal entry or exit of persons from the country. Laws prohibiting kidnaping, sexual abuse of minors, and illegal employment are enforced and could also be used to sanction traffickers in persons. There are no programs to educate vulnerable groups about the dangers of trafficking or to assist victims.

There were two reports during the year that persons were trafficked from the country. Early in the year, three women in their twenties were forced into prostitution in Korea after they were ostensibly hired as domestic workers. In May a Peruvian intermediary contracted three men to work as mechanics in Abu Dhabi. The men alleged that once they arrived in Abu Dhabi, their employer took away their passports and never paid them for work performed over several months. With assistance from a foreign consulate in Abu Dhabi and an NGO, the men were repatriated in October.

SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multiparty, parliamentary democracy, a federation, and a member of the Commonwealth of Nations. The Constitution provides the smaller island of Nevis considerable self-government under a premier, as well as the right to secede from the Federation in accordance with certain enumerated procedures. The Government consists of a prime minister, a cabinet, and a bicameral legislative assembly. The Governor General, appointed by the British monarch, is the titular

head of state, with largely ceremonial powers. In elections in March 2000, Prime Minister Denzil Douglas's St. Kitts and Nevis Labour Party won all 8 St. Kitts seats of the 11 seats in the legislature, and Douglas remained Prime Minister. In elections in Nevis on September 7, Premier Vance Amory's Concerned Citizens Movement (CCM) won four of the five seats in the Nevis Assembly. The judiciary is generally independent; however, intimidation of witnesses in high profile, drug-related cases has been a problem.

The security forces consist of a small police force, which includes a 50-person Special Services Unit that receives some light infantry training; a coast guard; and a small defense force. The forces are controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The country has a population of 42,500. The mixed economy is based on sugar cane, tourism, and light industry. Most commercial enterprises are privately owned, but a state corporation owns the sugar industry and 85 percent of arable land. In 1998 and 1999, hurricanes caused an estimated \$450 million damage (affecting over 85 percent of the houses and buildings), greatly reduced sugar production, and caused significant losses in the tourism industry. Since then, two main hotels that had closed due to hurricane damage reopened; cruise ship berths in Basseterre have been repaired and tourist arrivals have increased. Real economic growth was expected to be approximately 4 percent for the year, compared with an estimated 7.5 percent in 2000. The Government waived the 8 percent hotel accommodation tax for 18 months, beginning in August. Sugar production increased by 30 percent, but export earnings remained constant due to exchange rate fluctuations; economic activity slowed significantly in the manufacturing and construction industries. The unemployment rate was estimated at 5 percent. Per capita gross domestic product was approximately \$7,000 in 2000.

The Government generally respected citizens' human rights; however, there were problems in a few areas. Poor prison conditions, apparent intimidation of witnesses and jurors, government restrictions on opposition access to government-controlled media, and violence against women were the principal problems.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits the use of torture or other forms of inhuman or degrading treatment or punishment, and the authorities generally observe this prohibition in practice. However, there were occasional allegations of excessive use of force by the police, particularly during the annual Carnival celebration and at other special events.

The police force continues to conduct its own internal investigation when complaints are made against its members. There were 11 complaints filed during the year, 5 of which addressed police searches based on warrants (see Section 1.f.).

One complaint was dismissed when the complainant failed to appear; at year's end, there was no information available as to resolution of the other complaints.

Prison conditions are poor. Prisoners suffer from overcrowding and poor food. Resources remain limited, but shift adjustments and reorganization of guard posts reportedly resulted in a heightened sense of security at the prison during the year. The prison, built in 1840, was designed to accommodate 60 inmates but houses over 100 prisoners. A prison on Nevis houses 20 inmates. In St. Kitts pretrial detainees sometimes are held together with convicted prisoners; in Nevis they are held separately. Female inmates are segregated from male prisoners; however, there are no separate facilities for juveniles.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally respects this provision in practice. The law requires that persons detained be charged within 48 hours or be released. If charged, the police must bring a detainee before a court within 72 hours. Family members, attorneys, and clergy are permitted to visit detainees regularly.

Neither the Constitution nor the law prohibit forced exile, but the Government does not use it in practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, intimidation of witnesses and potential intimidation of jurors in high profile, drug-related cases has been a problem. The Government has not taken any

concrete steps to protect witnesses, judges, and jurors, although it continued to explore the possibility of a program to do so through the Caribbean Community.

The court system includes a high court and four magistrate's courts at the local level, with the right of appeal to the Eastern Caribbean Court of Appeal. Final appeal may be made to the Privy Council in the United Kingdom. Free legal assistance is available for indigent defendants in capital cases only.

The Constitution provides that every person accused of a crime must receive a fair, speedy, and public trial, and these requirements generally are observed. At year's end, there were 53 persons in "remand" (detention pending trial or further court action). The length of remand varies according to offense and charges; persons may be held for days, weeks, or months.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respects these prohibitions in practice. The law requires judicially issued warrants to search private homes. The police received five complaints during the year regarding police searches. According to the Police Chief, disciplinary action was taken in some cases, letters of apology were written, and one complainant was compensated for damages done during a search.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these provisions in practice; however, there were allegations during the year that the ruling party limited opponents' access to the media.

There are no daily newspapers; each of the major political parties publishes a weekly or biweekly newspaper. A third weekly newspaper is nonpartisan. The publications are free to criticize the Government and do so regularly and vigorously. International news publications are readily available.

The Government owns the major radio and only television station on St. Kitts, and these media generally did not adequately publicize rallies and other events held by opposition parties. A Trinidadian company manages the station; however, the Government appoints three of its five board members. There is a privately owned FM station on St. Kitts, and a religious television station and a privately owned radio station on Nevis. An application to the Government by the Federation Media Group for a radio license has been pending for over a year.

The opposition People's Action Movement (PAM) party has alleged that the Labour Party has maintained absolute control of the national television and radio broadcasting facilities, blocking PAM's access and ability to debate government policies or air opposing concerns. The Government denied these allegations, stating that these media accepted opposition advertising and carried news stories about the opposition party. PAM's leaders alleged that the party's inability to use or purchase media air time reflected a weakening of democratic processes. PAM's leaders wrote to the Prime Minister calling for public debate during the year and alleged that the Prime Minister had ignored their letters.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly and for the right of association, and the Government generally respects these rights in practice.

Political parties organized demonstrations, rallies, and public meetings during the 2000 election campaign without government interference. During the year, there were at least two peaceful public candlelight vigils; one protested a killing by three young men, and another protested violence against women following the shooting deaths of an 18-year-old mother and her baby.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

No formal government policy toward refugee or asylum requests exists. The issue of provision of first asylum did not arise during the year. There were no reports of forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government by peaceful means, and citizens exercise this right in practice through periodic elec-

tions held on the basis of universal suffrage. A vigorous multiparty political system exists, in which political parties are free to conduct their activities; however, an opposition party has alleged that the ruling party restricted access to the media (see Section 2.a.). All citizens 18 years of age and older may register and vote by secret ballot. Despite some irregularities, orderly general elections were held in 2000, and Nevis elections were conducted peacefully in September.

The Legislative Assembly has 11 elected seats: 8 for St. Kitts and 3 for Nevis. The Labour Party holds all eight St. Kitts seats in the legislature; opposition parties hold the other three seats. The PAM lost its one seat in the 2000 election. The island of Nevis has considerable self-government, with its own premier and legislature. In Nevis elections held on September 7, Premier Amory's CCM won four of the five seats in the Nevis Assembly.

In accordance with its rights under the Constitution, in 1996 the Nevis Assembly initiated steps towards secession from the Federation, the most recent being a referendum in 1998 that failed to secure the required two-thirds majority for secession. However, the matter of secession remained open, and in 2000 the opposition leader publicly stated his desire to have "two separate governments." Following the Nevis elections in September, secession is likely to remain an issue for the foreseeable future.

Although the Constitution prohibits discrimination on grounds of political opinion or affiliation, the former opposition party PAM alleges widespread employment discrimination by the St. Kitts and Nevis Labour Party against public sector employment of persons perceived to be PAM supporters. PAM alleged that the ruling party dismissed or demoted many PAM supporters from their jobs in order to replace them with its own supporters. The Government denied these allegations, stating that, unlike the previous administration, the Government made it a policy not to discharge supporters of the opposition party. The Government acknowledged that it had withheld pension benefits from opposition members of Parliament voted out of office but asserted that it had paid pension benefits to those entitled to them. PAM leadership reported that one person had not been paid; the Government asserted that it needed information about her remuneration from her law firm before it could calculate her pension benefits. The matter was before the court at year's end.

There are no impediments in law or in practice to the participation of women in leadership roles in government and politics; however, the percentage of women in government and politics does not correspond to their percentage of the population. There are 2 women in the National Assembly, 1 woman in the Cabinet, all 3 magistrates are women, the court registrar is female, and 5 of 18 permanent secretaries are female.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

While there are no governmental restrictions, no local human rights groups formed during the year. There were no requests for investigations or visits by international human rights groups during the year.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on grounds of race, place of origin, birth out of wedlock, political opinion or affiliation, color, sex, or creed, and the Government generally respects these provisions in practice.

Women.—According to a government official, violence against women is a problem. There is no legislation addressing domestic violence, but cases may be prosecuted under assault or battery provisions of the Offenses Against the Person Act. In 2000 a Domestic Violence Act was drafted; it would criminalize domestic violence and provide penalties for abusers. The draft bill was debated during the year and used as a training tool, but had not been passed into law by year's end. Although many women are reluctant to file complaints or pursue them in the courts, there were publicly reported cases of both domestic violence and rape, and a few convictions. During the year, local newspapers highlighted several cases of excessive violence against women, and one case of murder of an 18-year-old mother and her baby was covered heavily (see Section 2.b.). The Department of Gender Affairs, under the Ministry of Social Development, Community, and Gender Affairs, is active in the areas of domestic violence, spousal abuse, and abandonment. It conducted 18 2-day training sessions from February to April for police and school guidance counselors on problems of domestic violence, sexual crimes, and child abuse. A total of 540 persons received such training, including 450 police officers.

The role of women in society is not restricted by law but is circumscribed by culture and tradition. There is no overt societal discrimination against women in em-

ployment, although sectoral analyses suggest that women do not yet occupy as many senior positions as men do. The Department of Gender Affairs also conducts programs addressing poverty and health, and promoting institutional mechanisms to advance the status of women and leadership positions for women. It operated three programs for rural women, providing them market skills and training as entrepreneurs. The Department provides clients assistance with problems such as lack of housing, unemployment, child care, technical training, and personal development. During the year, the Department began to focus its programs on fathers, with community-based programs held twice a year during a 13-week period. Five communities participated, involving a total of 100 men.

Prostitution is illegal and is not considered to be a problem.

There are no laws covering sexual harassment, which the Department of Gender Affairs considers to be a growing problem.

Children.—The Government is committed to children's rights and welfare and has incorporated most of the provisions of the U.N. Convention on the Rights of the Child into domestic legislation. The law mandates compulsory education up to the age of 16; it is free and universal. Over 98 percent of children complete school.

Persons with Disabilities.—Although there is no legislation to protect persons with disabilities or to mandate accessibility for them, the Constitution and the Government prohibit discrimination in employment, education, and other state services.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of all workers to form and belong to trade unions. The law permits the police, civil service, and other organizations to organize associations that serve as unions. The major labor union, the St. Kitts Trades and Labour Union, is associated closely with the St. Kitts and Nevis Labour Party and is active in all sectors of the economy. In 2000 a teachers' union, a union representing dockworkers in the capital city, and two taxi drivers' associations were formed. However, during the year, the dockworkers union ceased to function due to lack of membership support and the lack of an active collective bargaining agreement.

The right to strike, while not specified by law, is well established and respected in practice. Restrictions on striking by workers who provide essential services, such as the police and civil servants, are enforced by established practice and custom, but not by law. There were no major strikes during the year.

Unions are free to form federations or confederations and to affiliate with international organizations. The islands' unions maintain a variety of international ties.

b. The Right to Organize and Bargain Collectively.—Labor unions are free to organize and to negotiate for better wages and benefits for union members. The law prohibits antiunion discrimination but does not require employers found guilty of such action to rehire employees who were fired for union activities. However, the employer must pay lost wages and severance pay. There is no legislation governing the organization and representation of workers, and employers are not bound legally to recognize a union, but in practice employers do so if a majority of workers polled wish to organize. Collective bargaining takes place on a workplace-by-workplace basis, not industrywide. The Labor Commissioner and Labor Officers mediate disputes between labor and management on an ad hoc basis. However, in practice few disputes actually go to the Commissioner for resolution. If neither the Commissioner nor the Ministry of Labor is able to resolve the dispute, the law allows for a case to be brought before a civil court.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits slavery and forced labor, and they do not occur in practice. While neither the Constitution nor the law specifically address bonded labor, it has not been a problem in practice.

d. Status of Child Labor Practices and Minimum Age for Employment.—Child labor is addressed in the Employment of Women, Young Persons, and Children Act, as well as the 1966 Employment of Children Ordinance. The Ordinance outlaws slavery, servitude, and forced labor, and prescribes the minimum legal working age as 12 years. Compulsory education mandated until the age of 16 effectively rules out steady employment before that age. The Labor Ministry relies heavily on school truancy officers and the community affairs division to monitor compliance, which they do generally effectively.

Agriculture, domestic service, and illicit activities are areas in which juveniles can find work. In rural families engaged in livestock farming and vegetable production, children often are required to assist as part of family efforts at subsistence. Girls often engage in domestic service. Such labor includes family-oriented work where children are made to look after younger siblings or ailing parents and grandparents at the expense of their schooling. Children often are engaged in other households

as domestic servants or babysitters. There were no reported cases of child labor during the year, and no cases of child labor have ever been brought to the attention of the Department of Labor, which is empowered to investigate and address complaints of child labor.

On December 10, 2000, the Government ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor. Child labor laws are to be reviewed under a program of labor legislation review and update that began in 1999 with the 1986 Protection of Employment Act.

Although the law does not specifically address bonded labor by children, it has not been a problem in practice (see Section 6.c.).

e. Acceptable Conditions of Work.—Minimum wage rates for various categories of workers, such as domestic servants, retail employees, casino workers, and skilled workers, were last updated in 1994, and manufacturing sector wages were revised in 1996. The average wage varies from \$67.42 (EC\$180) per week for full-time domestic workers to \$166.10 (EC\$443.50) per week for skilled workers. These provide a barely adequate living for a wage earner and family; many workers supplement wages by keeping small animals such as goats and chickens. The Labor Commission undertakes regular wage inspections and special investigations when it receives complaints; it requires employers found in violation to pay back wages. Workers who are laid off for more than 12 weeks receive a lump sum payment from the Government based on previous earnings and length of service.

The law provides for a 40- to 44-hour workweek, but the common practice is 40 hours in 5 days. Although not required by law, workers receive at least one 24-hour rest period per week. The law provides that workers receive a minimum annual vacation of 14 working days. While there are no specific health and safety regulations, the Factories Law provides general health and safety guidance to Labor Ministry inspectors. The Labor Commission settles disputes over safety conditions. Workers have the right to report unsafe work environments without jeopardy to continued employment; inspectors then investigate such claims, and workers may leave such locations without jeopardy to their continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons.

An "economic citizenship" program allows foreign investors to purchase passports through loosely monitored procedures involving cash inflows ranging from \$200,000 (EC\$534,000) to \$250,000 (EC\$670,000), plus a registration fee of \$35,000 (EC\$93,500) for the head of household (amounts vary for other family members). This program reportedly has facilitated the illegal immigration of persons from China and other countries to North America where, in some instances, criminal organizations that provided the funds to such persons forced them to work under conditions similar to bonded labor until their debt was repaid.

SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. The head of state is Queen Elizabeth II, represented by a Governor General, appointed by the Queen. The Governor General exercises ceremonial functions, but has residual powers under the Constitution that can be used at the Governor's General's discretion. The Prime Minister and the Cabinet, which usually represent the majority party in Parliament, exercise most of the power. The bicameral Parliament consists of a 17-member House of Assembly whose members are elected by universal adult suffrage for 5-year terms and an 11-member Senate appointed by the Governor General. In generally free and fair elections on December 3, Prime Minister Dr. Kenny Anthony's Saint Lucia Labour Party (SLP) retained power, winning 14 seats in the Assembly. The judiciary is generally independent.

The Royal Saint Lucia Police is the only security force and includes a small unit called the Special Services Unit (which has some paramilitary training) and a coast guard unit. They are controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The country's population is approximately 155,000. In 2000 the country had its tenth consecutive year of real economic growth. However, in 2000 gross domestic product was estimated to have grown 0.7 percent, compared with 3.5 percent in 1999. This lower growth reflected slowing in construction and in the distributive trades, which occurred despite a good year for tourism, a resurgence in banana output, and a noticeable increase in livestock and fish production. Tourism and banana exports are the country's principal sources of foreign exchange. Unemployment, which had stood at just under 20 percent at the end of 1999, decreased to 17.5 per-

cent in 2000. However, the rate of inflation rose slightly to 3.55 percent, compared with 3.50 percent in 1999, principally as a result of higher energy costs and increased food prices.

The Government generally respected the human rights of its citizens; the authorities continued to investigate two killings committed by police in 2000. There were some allegations of physical abuse of suspects and prisoners by the police; poor prison conditions, long delays in trials and sentencing, domestic violence against women, and child abuse also are problems.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

At year's end, the Government had not concluded its investigation into the November 2000 killing by police of escaped prisoner Alfred Harding.

In October 2000, police officers in Castries shot and killed Paul Hamilton. A policeman shot him in the back as he fled from an attempted arrest, following his alleged verbal abuse of a young woman. The Government announced that an internal police investigation would be undertaken. The shooting prompted a public demonstration against police abuse of power and lawlessness in Castries, organized by the National Center for Legal Aid and Human Rights and a group called Concerned Citizens. At year's end, the Government had not completed its investigation of the killing.

Investigations still continued into three other deaths by police shooting in 1998–99.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution specifically prohibits torture. There were no reports of torture or other cruel, inhuman, and degrading treatment or punishment during the year. Although no official complaints were filed, prisoners and suspects complained of physical abuse by police and prison officers.

In February the Prime Minister said that the Government wished to reform its police services and had invited a team of British experts to do an overall assessment of the structure and management of the police force. He said that the Canadian Government had provided an officer of the Royal Canadian Mounted Police to act as Deputy Commissioner of Police in order to strengthen personnel procedures. Other efforts to strengthen police services included adding 150 new officers, with 50 more in training.

Prison conditions are very poor and continued to deteriorate during the year. Overcrowding is also a problem. In December there were 450 inmates in the main prison facility, which was built to house 80 inmates. Sanitation is a particular problem, with open pit latrines for prisoners. In 1999 the Government announced construction of a new \$17 million (EC\$50 million) prison facility near Dennery in the eastern part of the island. The projected completion date for the new prison was September 2000; however, the new facility was not near completion at year's end, and prisoners are not expected to be transferred to it until mid-2002. In the meantime, existing prison facilities continue to deteriorate, since no new resources have been committed to them. In February the Prime Minister announced that his administration had undertaken security-related plant and infrastructure improvements for the prison and for the police. In addition to the new prison, there are also plans for constructing numerous police substations across the island.

The Government maintains a separate prison facility for women, and in December there were 11 female prisoners. Conditions in the women's facility are somewhat better than those at the men's prison. Detained juveniles are held at the same facility as women; in December there were three juveniles held there.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest or imprisonment and requires a court hearing 72 hours after detention, and the Government generally adheres to these provisions in practice. However, in the past, authorities have held prisoners for years on remand after charging them. There is no constitutional requirement for a speedy trial. Prisoners spend an estimated 6 months to 1 year on remand, especially for serious crimes.

The Government does not use forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

There are two levels of courts, which are the Courts of Summary Jurisdiction (Magistrate's Courts) and the High Court. Both levels have civil and criminal au-

thority. The lower courts accept civil claims up to about \$1,850 (EC\$5,000) and criminal cases generally classified as “petty.” The High Court has unlimited authority in both civil and criminal cases. All cases can be appealed to the Eastern Caribbean Court of Appeal. Cases also may be appealed to the Privy Council in London as the final court of appeal.

The Constitution requires public trials before an independent and impartial court and, in cases involving capital punishment, provision of legal counsel for those who cannot afford a defense attorney. In criminal cases not involving capital punishment, defendants must obtain their own legal counsel. Defendants are entitled to select their own legal counsel, are presumed innocent until proven guilty in court, and have the right of appeal. The authorities observe both constitutional and statutory requirements for fair public trials.

The court system continues to face a serious backlog of cases. In 1998 a team of justices from Australia conducted a study and issued a report with recommendations for reducing the backlog. The Government has not yet completed its review of the report’s recommendations, but did hire a new director of public prosecutions in 1999 and provided him with staff to help speed up the trial process and reduce the backlog. In November the Government appointed two new magistrates. In the October-November court sitting on criminal cases, there were 18 cases pending from 1998–2000, and 7 from 2001. The average time for a trial takes 3 to 6 months in the magistrate’s courts and 6 to 12 months for criminal cases.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions, and government authorities generally respect these prohibitions in practice. Violations are subject to effective legal sanctions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Unlike the previous year, there were no reports of censorship.

There are four major privately owned newspapers, two privately owned radio stations, one partially government-funded radio station, one government-operated television station that began operating in October, and two private television stations. These media carry a spectrum of political opinion and often are critical of the Government. The radio stations have discussion and call-in programs that allow persons to express their views. The two private television stations also cover a wide range of views. In addition, there is subscription cable television service, which provides programming from a variety of sources, such as CNN and the BBC.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms of assembly and association, and the Government generally respects these rights in practice.

The law requires permits for public meetings and demonstrations if they are to be held in public places, such as on streets or sidewalks or in parks. The police routinely grant such permits; the rare refusal generally stems from the failure of organizers to request the permit in a timely manner, normally 48 hours before the event.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

On December 31, 2000, two men, alleged to be members of the Rastafarian movement, attacked a Sunday Mass in a Roman Catholic Church in Castries. They killed a nun, doused the priest with gasoline and set him on fire, and wounded 12 other persons. Thirteen persons were hospitalized for treatment of knife wounds and burns, including the priest. Some hours after the attack, a male worshipper died from wounds suffered in the attack. On April 19, the priest died as a result of blood clots, which may have been an existing condition prior to the attack.

Immediately after the attack, the police arrested a 20-year-old male, who was rescued from a church mob as he tried to escape the scene of the incident. A second male, age 34, was arrested a day later. The two men were believed to be Rastafarians and members of an anti-Catholic cult. Local Rastafarian leaders strongly criticized the attack. In January the authorities charged the two alleged attackers with murder and arson. In October the preliminary inquiry concluded, and the Senior Magistrate ruled that there was sufficient evidence to proceed to trial. At year’s end, the men were being held on remand pending determination of a trial date.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

No formal government policy toward refugee or asylum requests exists. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced expulsion of any persons having a claim to refugee status; however, government practice remains undefined.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government, and exercised that right in generally free and fair elections on December 3, when Prime Minister Anthony's SLP defeated the United Workers Party (UWP), led by Morella Joseph. The SLP won 14 of 17 seats and the UWP won 3. The other opposition parties—the National Alliance, led by former SLP Foreign Minister George Odlum; the STAFF (Sou Tout Apwe Fete Fini) Party, and the St. Lucia Freedom Party—did not win any seats. The SLP capitalized on the failure of the opposition forces to unite in a national coalition due to a leadership struggle between Odlum, and Sir John Compton, founder of the UWP and a former Prime Minister. Only 52 percent of those eligible voted, and although the margin of victory in several constituencies was small, the SLP won 55 percent of the popular vote.

Under the Constitution, general elections must be held at least every 5 years by secret ballot, but may be held earlier at the discretion of the government in power. Two members of the Senate are independent, appointed by the Governor General.

Parliament may be dissolved by the Governor General at any point during its 5-year term, either at the request of the Prime Minister or at the Governor General's discretion, if the House passes a vote of no confidence in the Government. Popularly elected local governments in the 10 administrative divisions (towns and villages) perform such tasks as regulation of sanitation and markets and maintenance of cemeteries and secondary roads.

There are no legal impediments to participation by women and minorities in government and politics; however, the percentage of women and minorities in government and politics does not correspond to their percentage of the population. Two of the 13 members of the Cabinet are women, as is the Governor General.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government generally does not restrict international or nongovernmental investigations of alleged violations of human rights. Although the Government officially cooperates with such investigations, observers have noted occasional reluctance by lower officials to cooperate. In some cases, it has requested international organizations to investigate possible abuses.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Neither the Constitution nor the law address discrimination specifically; however, government policy is nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement. There are no legal restrictions on the role of women or minorities.

Women.—There is increased awareness of the seriousness of violence against women. The Government does not prosecute crimes of violence against women unless the victim presses charges. If the victim chooses for any reason not to press charges, the Government cannot bring a case. Charges must be brought under the ordinary Civil Code. A family court hears cases of domestic violence and crimes against women and children. The police force conducts some training for police officers responsible for investigating rape and other crimes against women, but there is no special unit that handles crimes against women and children. Police and courts enforce laws to protect women against abuse, although police are hesitant to intervene in domestic disputes, and many victims are reluctant to report cases of domestic violence and rape or to press charges.

The Domestic Violence Act allows a judge to issue a protection order prohibiting an abuser from entering or remaining in the place where the victim is. It also allows the judge to order that an abuser's name be removed from housing leases or rental agreements, with the effect that the abuser would no longer have the right to live in the same residence as the victim.

The Saint Lucia Crisis Center for Women in Castries and a second center in the southern town of Vieux monitor cases of physical and emotional abuse and help cli-

ents to deal with such problems as incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights. The Crisis Center has publicized the plight of battered women and has protested the rare deaths of women who were victims of domestic violence. In September the Government, with foreign assistance, built a shelter for abused persons. Although fully staffed and equipped, it had not yet opened at year's end. The Crisis Center was expected to merge its operations with the new shelter.

Women's affairs are under the jurisdiction of the Ministry of Health, Human Services, Family Affairs, and Women. The Minister is responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

Children.—The Government gives a high priority to improving educational opportunities and health care for children. Education is free and compulsory from age 5 through 15. However, only about one-third of primary school children continue on to secondary schools, and the drop out rate from primary to secondary school is higher for boys than for girls. Government clinics provide prenatal care, immunization, child health care, and health education services.

The Saint Lucia Crisis Center reported that the incidence of child abuse remains high.

A broad legal framework exists for the protection of children through the Criminal Code, the Children and Young Persons Act, the Family Court Act, the Domestic Violence Act, and the Attachment of Earnings Act. Although the Government adopted a national plan of action in 1991 for the survival, protection, and development of children, it has not fulfilled this program by implementing effective programs. There are no specific laws enacted to cover foster care, adoptions, or child welfare social services.

Persons with Disabilities.—No specific legislation protects the rights of persons with disabilities, nor mandates provision of access to buildings or government services for them. There is no rehabilitation facility for persons with physical disabilities, although the Health Ministry operates a community-based rehabilitation program in residents' homes. There are schools for the deaf and for the blind up to the secondary level. There is also a school for persons with mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Most public sector employees are unionized; about 20 percent of the total work force is unionized. Unions are independent of government and are free to choose their own representatives in often vigorously contested elections. There are no restrictions on the formation of national labor federations. Several of the major unions belong to an umbrella grouping called the Industrial Solidarity Pact.

Strikes in both the public and private sectors are legal, but there are many avenues through collective bargaining agreements and government procedures that may preclude a strike. The law prohibits members of the police and fire departments from striking. Other "essential services" workers—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days' notice before striking.

Unions are free to affiliate with international organizations, and some have done so.

b. The Right to Organize and Bargain Collectively.—Unions have the legal right to engage in collective bargaining, and they fully exercise this right in practice. The Registration of Trade Unions and Employer Organizations Act is viewed widely as prouction, and since it entered into effect in January 2000, it has resulted in increased organizational activity by unions. The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints. It also requires that employers reinstate workers fired for union activities.

Labor law is applicable in the export processing zones (EPZ's), and there are no administrative or legal impediments to union organizing or collective bargaining in those zones. Although many firms resist union efforts to organize in the EPZ's, the new law appeared to have a positive influence on organizing efforts.

c. Prohibition of Forced or Compulsory Labor.—The Government prohibits forced or compulsory labor, and it is not known to occur. While there is no specific prohibition of forced or bonded labor by children, there were no reports of such practices.

d. Status of Child Labor Practices and Minimum Age for Employment.—Minors are protected legally from economic exploitation by several legislative acts, including the Children and Young Persons Act, which provides for a minimum legal working age of 14 years. The minimum legal working age for industrial work is 18 years. Child labor exists to some degree in the rural areas, primarily where larger, strong-

er, school-age children help harvest family banana trees. Children also typically work in urban food stalls or sell confectionery on sidewalks. However, these activities occur on nonschool days and during festivals. The Department of Labor of the Ministry of Legal Affairs, Home Affairs, and Labor is responsible for enforcing statutes regulating child labor. Penalties for violating child labor laws include fines up to \$75 (EC\$200) and prison terms up to 3 months. There were no formal reports of violations of child labor laws. In December 2000, the Government ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor. The Government does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work.—The Wages Regulations (Clerks) Orders, in effect since 1985, set out minimum wage rates only for clerks. These office workers receive a legislated minimum wage of about \$300 (EC \$800) per month. The minimum wage is not sufficient to provide a decent standard of living for a worker and family, but some categories of workers receive more than the legal minimum for clerks, which is used only as a guide for setting pay for other professions.

There is no legislated workweek, although the common practice is to work 40 hours in 5 days. Special legislation covers hours that shop assistants, agricultural workers, domestics, and persons in industrial establishments may work.

Occupational health and safety regulations are relatively well developed; however, there is only one qualified inspector for the entire country. Therefore, Ministry of Labor inspections of health and safety conditions at places of employment (under the Employee's Occupational Safety and Health Act of 1985) are infrequent, at best. The Ministry enforces the act through threat of closure of the business if it discovers violations and the violator does not correct them. However, actual closures rarely occur because of lack of staff and resources. Workers are free to leave a dangerous workplace situation without jeopardy to continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country.

SAINT VINCENT AND THE GRENADINES

St. Vincent and the Grenadines is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a unicameral legislative assembly compose the Government. The Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In October 2000, Prime Minister Sir James F. Mitchell of the New Democratic Party (NDP) resigned, following divisive general strikes during the spring, and Arnhim Eustace, an NDP parliamentarian, replaced him. In March elections that were generally free and fair, the Unity Labor Party (ULP) won 12 of the 15 parliamentary seats and ULP leader Ralph Gonsalves became the new Prime Minister. The NDP had held power for 16 years. The judiciary is generally independent.

The Royal St. Vincent Police, the only security force in the country, includes a coast guard and a small Special Services Unit (SSU) with some paramilitary training, which often is accused of using excessive force. The force is controlled by and responsive to the Government, but police continued to commit some human rights abuses.

The country's population is approximately 113,000, with a market-based economy that relies heavily on its supply of natural resources, including agricultural products such as bananas and arrowroot, as well as on the tourist industry. Much of the labor force is engaged in agriculture. Bananas are the leading export and a major source of foreign exchange earnings. However, the banana industry is declining, and the growing tourism sector is becoming the leading earner of foreign exchange. Unemployment is estimated to be between 25 and 40 percent, and real gross domestic product (GDP) growth in 2000 was estimated at approximately 3.5 percent, as compared with 4 percent in 1999. Per capita GDP was approximately \$2,550 in 1999.

The Government generally respected citizens' human rights; however, there were problems in a few areas. The police SSU was accused of one extrajudicial killing. Other principal human rights problems continued to include instances of excessive use of force by police, the Government's failure to punish adequately those responsible for such abuses, poor prison conditions, and an overburdened court system. Violence against women and abuse of children also were problems.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings.

On April 1, police shot and killed Andrew Cuffy when he attempted to flee from a shop in Barrouallie. The police asserted that Cuffy had a shotgun in his possession. Eyewitnesses claimed that during his attempt to flee, the police could have restrained Cuffy physically on several occasions; instead he was killed when the police opened fire. The police stated that Cuffy turned and aimed a shotgun at a member of the pursuing police force. An inquest determined that the police were not liable for Cuffy's death.

On December 31, 2000, police shot and killed Ezekiel "Zulu" Alexander during a chase in South Rivers. There are varying accounts of the events that led to Alexander's death. Police accounts claim that officers of the Narcotics Division visited Alexander's home to execute warrants for nonpayment of fines and to search for drugs, when he began to run and was shot in an ensuing struggle. Other reports alleged that police officers had staked out Alexander's home that morning, and that when he returned home, police began to chase him. During the pursuit, police fired at least three shots. The President of the Saint Vincent and the Grenadines Human Rights Association (SVGHRA) criticized the killing, asserting that it was unnecessary, irresponsible, and unlawful. An inquest determined that one of the two policemen was liable for unlawful killing. The policeman was charged, and the trial was scheduled for February 2002.

A coroner's investigation into the March 2000 killing of David Browne, who was shot by the police SSU as they were taking him into custody for building a shack on the grounds of a secondary school, concluded that Browne died by "misadventure" (accident). Human rights activists who claimed that the police SSU used excessive and injudicious force leading to Browne's death had called for the investigation.

There were two prison deaths due to violence (see Section 1.c.).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and other forms of cruel, inhuman, or degrading treatment or punishment. However, regional human rights groups have noted that a high percentage of convictions are based on confessions. One human rights group believes that some of these confessions resulted from unwarranted police practices, including the use of physical force during detention, illegal search and seizure, and failure to inform properly those arrested of their rights.

During the year, there were at least two cases of persons shot and injured in their homes by police who pursued them to enforce outstanding warrants for unpaid court fines. In one case, the police reportedly filed charges of assault, stating that the victim had attacked them with a cutlass.

There is no independent review board to monitor police activity or to hear public complaints about police misconduct. A public relations section within the force is responsible for investigating such reports. Human rights advocates recommend an independent board to protect the rights of citizens who complain about police misconduct. Police Commissioner William Harry, who was appointed in June, has called for the creation of a review board of independent representatives to monitor internal investigations of police conduct. At year's end, the Ministry of National Security had not indicated its position on establishing an independent review board. In August the SVGHRA participated in a training seminar for police officers.

Prison conditions are poor. Prison buildings are antiquated and overcrowded, with one holding more than 300 inmates in a building designed for 75; these conditions result in serious health and safety problems. The main prison is a four-building compound located in Kingstown. In addition to a lack of resources, adequate training and personnel, government officials said that there are no funds available to construct a new prison. Pretrial detainees are held with convicted prisoners.

During 2000 prisoners demonstrated against poor prison conditions, and the Government appointed a retired SSU commander, Leroy Latchman, to be Superintendent of Prisons. In January inmates stabbed Superintendent Latchman with a sharpened piece of half-inch steel, which punctured his intestines. On January 28, eight other inmates killed two inmates. One of the persons killed was alleged to have been the inmate who stabbed Latchman, while the other was alleged to have given the assailant the weapon. There was a preliminary inquiry, and the case has been set for the sitting of the High Court in February 2002.

In February High Court Judge Ian Mitchell completed a report on prison conditions, in which he asserted that the root causes of the country's prison problems

were overcrowding and poor recreational facilities. The report reviewed prison conditions after violence in the facility following the stabbing of then-Superintendent Latchman in January. Mitchell's report concluded that the prison is "a university for crime" due to endemic violence, understaffing, underpaid guards, uncontrolled weapons and drugs, an increase in HIV/AIDS, and prevalence of unhygienic conditions such as missing toilets. He reported that prisoners use a communal pit as a latrine. The report stated that inmates receive protection from internal violence through their membership in gangs. The report documented that after a prisoner was released, he was expected to throw alcohol, weapons, and drugs back over the prison wall for use by his gang. If a prisoner did not and, as frequently happened, returned to jail, he would be beaten severely. In addition, according to the report, a prisoner could expect to be stabbed sometime during his imprisonment. The report also noted that police and guards conducted sporadic, infrequent, and inefficient searches of the prison.

In July the Government hired a new Superintendent of Prisons, who was reported to have ended the practice of inmates seeking protection from prison gangs. He also began in-house training of guards and arranged for guards to be trained in Barbados. He filled 5 existing vacancies during the year and plans to increase the staff by 13 new guards. A rehabilitation program began, and inmates received contracts and jobs with local entrepreneurs. A school program began with courses in carpentry, tailoring, baking, and mechanical engineering.

In June the Minister of National Security accused some prison officers of colluding with inmates to break the law and prison regulations. During the year, the authorities suspended a guard, who was alleged in 2000 to have sexually assaulted and abused inmates; an inquiry still was underway at year's end. Allegedly, guards also supply drugs and other contraband or ignore abuse of prisoners by other inmates. However, reports during the year indicated that serious injuries caused to prisoners by prisoners, as frequently as five to six daily, had declined significantly to as few as one per month. On October 1, a British Inspector of Prisons arrived for a 1-month visit to assist in improving prison regulations and upgrading conditions; he is expected to return periodically.

Inmates are allowed to speak freely with their lawyers, but a human rights lawyer has asserted that there is an existing rule that a prison officer must stand not only within sight, but also within hearing of the inmate and his lawyer.

Eight female inmates are housed in a separate section in the Fort Charlotte prison. Although separate legal statutes exist for youthful offenders, there are no separate magistrates, prosecutors, or procedures to handle such cases. Children may be charged and convicted as criminals from the age of 8. In such cases, children then may be jailed with older criminals. Conditions are inadequate for juvenile offenders, but there are plans to place first-time offenders in Fort Charlotte, as well. There is a small facility for delinquent boys; however, it depends solely upon private donations. As a result, it is in disrepair and only houses a small number of boys.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution provides that persons detained for criminal offenses must receive a fair hearing within a reasonable time by an impartial court, and the Government generally respects these provisions in practice; however, complaints continue regarding police practices in bringing cases to court. Although there are only two official magistrates, the registrar of the High Court and the presiding judge of the family court effectively serve as magistrates when called upon to do so. Some defense attorneys claim that there are 6- to 12-month delays in preliminary inquiries for serious crimes.

The Constitution prohibits forced exile, and it is not used in practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent and impartial judiciary, and the Government generally respects this provision in practice.

The judiciary consists of lower courts and a High Court, with appeal to the Eastern Caribbean Court of Appeal and final appeal to the Privy Council in the United Kingdom. There are five official magistrates, including the senior magistrate and three other magistrates in addition to the Registrar of the High Court. The chief magistrate is also president of the family court.

The Constitution provides for public trials. The court appoints attorneys for indigent defendants only when the defendant is charged with a capital offense. Defendants are presumed innocent until proven guilty and may appeal verdicts and penalties. There is a large backlog of pending cases. In January 2000, a fire destroyed offices with records in the magistrates' court. The family court handled some cases, but the backlog increased. The court reopened in September 2000. The magistrate's court in Kingston meets daily; on Tuesdays it handles mainly drug-related cases.

The court docket averaged approximately 55–60 cases per day; however, only 5 to 7 cases generally were heard, adjudicated, or disposed of each day.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits arbitrary search and seizure or other government intrusions into the private life of individual citizens, and there were no reports of such abuses during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice.

There are two major newspapers and numerous smaller, partisan publications; all are privately owned, and most are openly critical of the Government's policies. There were no reports of government censorship or interference with the operation of the press during the year. However, individual journalists believe that government advertising, a significant source of revenue, sometimes is withheld from newspapers that publish articles that are less than favorable to the Government.

The sole television station in St. Vincent is privately owned and operates without government interference. Satellite dishes are popular among those who can afford them. There is also a cable system with mainly North American programming that has over 300 subscribers. The Government controls programming for the government-owned radio station.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for these rights, and the Government generally respects them in practice.

In March the police SSU fired shots to restore order during a conflict between a security company hired by a land development firm and local protesters demonstrating against a resort project under development in Canouan.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. However, it is not clear whether such complaints reflect discrimination on the basis of religious belief by authorities or simply enforcement of laws against marijuana, which is used as part of Rastafarian religious practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respects them in practice.

No formal government policy toward refugee or asylum requests exists. The issue of the provision of first asylum did not arise during the year. A Red Cross representative serves as the honorary liaison with the office of the U.N. High Commissioner for Refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government through regularly scheduled free and fair elections. St. Vincent has a long history of multiparty parliamentary democracy. The Constitution provides for general elections at least every 5 years. During the 1998 election, the ruling New Democratic Party won a slim 1-seat majority (8 of 15) in Parliament, despite losing the popular vote by a 55 to 45 percent margin to the opposition Unity Labour Party. Calling this outcome an "overt manifestation of rejection by the public" of Prime Minister Mitchell's Government, the ULP claimed election fraud and demanded new elections. The Prime Minister refused the ULP demand. Subsequent demonstrations led to internal pressures and to an agreement brokered by members of the Caribbean Community that elections would be held in 2001. In November 2000, leaders of the three political parties signed a "Code of Conduct" intended to govern the campaign period, including a pledge of equal time on local radio and other electronic media and an agreement not to incite or encourage violence. The parties generally adhered to the code during the campaign.

On March 28, elections were held in accordance with the agreement. There was no serious violence and observers declared the voting to be generally free and fair. The opposition ULP won 12 out of the Parliament's 15 seats, and Dr. Ralph Gonsalves became Prime Minister, ending 16 years of NDP rule. Former Prime Minister Arnhim Eustace, who had taken over leadership of the NDP and become Prime Minister in 2000, was one of three NDP candidates to win a seat. The Governor

General appoints all six members of the largely ceremonial Senate; four on the advice of the Prime Minister and two on the advice of the Leader of the Opposition.

There are no legal impediments to women's full participation in politics or government; however, the percentage of women in government or politics does not correspond to their percentage of the population. In March voters elected two women to Parliament; they also serve as cabinet ministers—the Minister of Tourism and the Minister of Social Services. There are two female senators. The Deputy Governor General is also female.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Opposition political groups and the Vincentian press often comment on human rights matters of local concern. The SVGHRA monitors government and police activities, especially with respect to treatment of prisoners, publicizing any cases of abuse. In August the SVGHRA participated in a training seminar for police officers and addressed issues such as arrest and detention, the universal declaration of human rights, constitutional reform, and general police procedures. The Government generally is responsive to public and private inquiries about its human rights practices.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal treatment under the law regardless of race, sex, or religion, and the Government generally adheres to this provision in practice.

Women.—Violence against women, particularly domestic violence, remains a serious problem. The Domestic Violence/Matrimonial Proceedings Act and the more accessible Domestic Violence Summary Proceedings Act provide for protective orders, as well as occupation and tenancy orders; the former only is accessible through the High Court, but the latter can be obtained without the services of a lawyer in family court. As part of a human rights education program, the SVGHRA conducts numerous seminars and workshops throughout the country to familiarize citizens with their rights. Increasing numbers of women are coming forward with domestic violence complaints.

Depending on the magnitude of the offense and the age of the victim, the punishment for rape is generally 10 or more years in prison.

A 1995 amendment to the Child Support Law allows for payments ordered by the courts, even when notice of an appeal has been filed. Previously, fathers who had been ordered to pay child support could appeal decisions and not pay while the appeal was being heard. This resulted in a huge backlog of appeal cases and effectively reduced the number of mothers and children receiving support payments. There is a family court in the capital city of Kingstown with one magistrate. According to the SVGHRA, because there are only two bailiffs to service the country, summonses often are not served on time for cases scheduled to be heard in court. Late in the year, the Government hired additional bailiffs to help address this problem.

The Ministry of Education, Women's Affairs, and Culture has a women's desk that assists the National Council of Women with seminars, training programs, and public relations. The minimum wage law specifies that women should receive equal pay for equal work.

Marion House, a social services agency established by the Catholic Church in 1989 and staffed by four trained counselors and three foreign volunteers, provides counseling and therapy services. During the year, the organization was relocated to government-built facilities, following a fire that destroyed the previous building.

Children.—Education is not compulsory, but the Government investigates cases in which children are withdrawn from school before the age of 16. The teachers' union estimated that between 8 and 10 percent of secondary school-age children did not attend school during the year. Despite the Government's efforts to support health and welfare standards, the infant mortality rate is still very high at 16.61 deaths per 1,000 live births. One underlying cause is the large number of children born to teenage mothers.

The Domestic Violence Summary Proceedings Act provides a limited legal framework for the protection of children. Nevertheless, reports of child abuse remain high and are on the increase. The Social Welfare Office is the government agency responsible for monitoring and protecting the welfare of children. The police are the enforcement arm; the Social Welfare Office refers all reports of child abuse to the police for action.

Persons with Disabilities.—There is no specific legislation addressing persons with disabilities, and the circumstances for such persons are generally difficult. Most persons with severe disabilities rarely leave their homes because of the poor road sys-

tem and lack of affordable wheelchairs. The Government partially supports a school for persons with disabilities which has two branches. A separate, small rehabilitation center treats about five persons daily.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides citizens the right to form unions and to organize employees; however, employers often ignore the constitutional provisions that provide for union rights and claim that they have a constitutional right not to recognize a trade union. Nonetheless, some employers seek a good industrial relations environment and cooperate with trade unions. The Trade Unions and Trade Disputes Act allows the right to strike; however, there were no major strikes during the year.

Unions have the right to affiliate with international bodies, and they do so in practice.

b. The Right to Organize and Bargain Collectively.—There are no legal obstacles to organizing unions; however, no law requires employers to recognize a particular union as an exclusive bargaining agent. Some companies offer packages of benefits with terms of employment better than, or comparable to, what a union normally can obtain through negotiations. The law prohibits antiunion discrimination by employers. Generally effective mechanisms exist for resolving complaints. The authorities may order employers found guilty of antiunion discrimination for firing workers without cause (including for participation in union activities) to reinstate the workers or give them severance pay.

According to press reports during the year, workers at the retail outlet Voyager were refused union recognition. The union could not take the company to court, because there are no laws that make nonrecognition of a union an offense. The Labor Commissioner was forced to intervene, but several disputes in court arose from peripheral matters. The Protection of Employment Act provides for compensation and worker rights, but these are restricted to protection from summary dismissal without compensation and reinstatement or severance pay if unfairly dismissed. A draft Labor Industrial Relations Act under debate includes a proposal for recognition of trade unions.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Government prohibits forced or compulsory labor, and it is not known to occur. The Government does not prohibit specifically forced or bonded labor by children, but there were no reports that it occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law sets the minimum working age at 16 years of age, although a worker must be 18 years of age to receive a national insurance card. The Ministry of Labor monitors and enforces this provision, and employers generally respect it in practice. The Labor Inspectorate at the Department of Labor receives, investigates, and addresses child labor complaints. Labor officers in this unit conduct general inspections of work places annually. The age of leaving school at the primary level is 15 years; when these pupils leave school, they usually are absorbed into the labor market disguised as apprentices. There is no known child labor except for children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The Government has partnered with the nongovernmental sector, including UNICEF, in an antipoverty strategy aimed at improving economic opportunities for youth. According to the International Labor Organization (ILO), Parliament has ratified ILO Convention 182 on elimination of the worst forms of child labor, but the Government had not deposited the formal ratification at year's end. The law does not prohibit specifically forced or bonded labor by children, but there were no reports that it occurred during the year (see Section 6.c.).

e. Acceptable Conditions of Work.—The law sets minimum wages, which were last promulgated in 1989. They vary by sector and type of work and are specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, and clerks. In agriculture the wage for workers provided shelter is \$6.74 (EC\$18) per day; industrial workers earn \$7.49 (EC\$20) per day. In many sectors, the minimum wage is not sufficient to provide a decent standard of living for a worker and family, but most workers earn more than the minimum. The Wages Council, according to law, should meet every 2 years to review the minimum wage, but it had not met since 1989. A new Wages Council was appointed in March following the elections; it met and made recommendations that were submitted to the Government, which still was considering them at year's end.

There is no legislation concerning the length of the workweek; however, the general practice is to work 40 hours in 5 days. The law provides workers a minimum annual vacation of 2 weeks.

According to the Ministry of Labor, legislation concerning occupational safety and health is outdated. The most recent legislation, the Factories Act of 1955, has some regulations concerning factories, but enforcement of these regulations is ineffective. Workers enjoy a reasonably safe working environment; however, the trade unions addressed some violations relating to safety gear, long overtime hours, and the safety of machinery. There were some reports of significant visual impairment by visual display unit workers, and some reports of hearing impairment by power station and stone crushing employees. The law does not address specifically whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, but it stipulates conditions under which plants must be maintained. Failure to do so would constitute a breach, which might cover a worker who refuses to work under these conditions.

f. Trafficking in Persons.—There are no laws specifically addressing trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

SURINAME

After over a decade of predominantly military rule, Suriname installed a freely elected Parliament and inaugurated a democratically chosen president in 1991. After generally free and fair elections in May 2000, the 51-member National Assembly elected Ronald Venetiaan of the National Party of Suriname (NPS) as President in August 2000; he replaced Jules Wijdenbosch of the National Democratic Party (NDP). Venetiaan previously had served as President in 1991–96. The Constitution provides for an independent judiciary, and previous disputes over judicial appointees by the former president were alleviated in 2000 when the appointees in question resigned from the judiciary, which appears to be acting generally independently, although it is inefficient.

The armed forces are responsible for national security and border and immigration control; they are under the effective control of the civilian Minister of Defense. Civilian police bear primary responsibility for the maintenance of law and order; they report to the Ministry of Justice and Police. The first Venetiaan Government had reformed the military in 1995–96 by purging military officers and supporters of former dictator Desi Bouterse, who ruled the country in the 1980's. Bouterse's NDP won 10 seats in the National Assembly in 2000, 1 of which he occupies. Over the past few years, the party's influence within the military had declined steadily; however, during the year it remained constant. The military police continued to maintain responsibility for control of the country's borders and airports, but it has not investigated civilian crimes since 1989. Members of the security forces committed some human rights abuses.

The country's population is approximately 450,000, and the economy depends heavily on the export of bauxite derivatives. Unregulated gold mining is an increasingly important economic activity that highlights a lack of land rights for indigenous and tribal peoples and has a serious environmental impact. The Government and state-owned companies employ over half the working population. Overall economic conditions stabilized during the year, and estimated gross domestic product grew by approximately 3 percent. The inflation rate was 4.8 percent, compared with 82 percent in 2000 and 113 percent in 1999. Per capita annual income was approximately \$1,000.

The Government generally respected the human rights of its citizens; however, serious problems remained in some areas. Police mistreat detainees, particularly during arrests; guards abuse prisoners; and local detention facilities remain overcrowded. Lengthy pretrial detention is a problem, and the judiciary suffers from ineffectiveness and a huge case backlog. Unlike previous years, there was no harassment of journalists; however, media self-censorship continued. Societal discrimination against women, minorities, and tribal peoples persists. Violence against women and trafficking in women and girls are problems.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There was one report of an extrajudicial killing in the town of Albina, on the border with French Guiana. When the police took a man into custody during the summer on suspicion of motor bike theft, they took him to a detention area and handcuffed him. He allegedly tried to escape and was shot in the back of the head without warning. The victim's family

called for an investigation into the shooting, but no additional information was available at year's end.

The Government has not addressed many past abuses, and they continue to be a focus of concern. The authorities have not taken action against prison guards who allegedly beat a prisoner to death in 1993. There has been no investigation into the 1986 massacre of civilians at the village of Moiwana.

In view of the human rights record of the Bouterse regime, many of whose members participated in the 1996–2000 Wijdenbosch Government, human rights organizations remained concerned about the potential for a deterioration of civil liberties.

After the elections in 2000, there were calls for the new Government to investigate the December 1982 killings by the Bouterse regime of 15 opposition leaders before the 18-year statute of limitations expired in December 2000. Accordingly, in October 2000, the Court of Justice began hearings on the killings in response to a request from relatives of the victims. Bouterse's lawyer sought to postpone the hearings, but the court denied his request. The court heard testimony from the victims' relatives, human rights activists, and the prosecutor's office, which had not yet made any investigation into the killings. Previously, Bouterse himself had requested an investigation, after the victims' relatives asked a Dutch court to prosecute him in that country. In September the Dutch court ruled that it did not have jurisdiction in such a case; relatives of two of the victims took the case to the European Court of Human Rights. Following an order from the Court of Justice, an examining judge continued an investigation into the killings, but no suspects had been charged or brought to trial by year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

However, the Government has yet to take any action to investigate allegations of some disappearances that occurred under previous regimes.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits inhuman treatment or punishment, but human rights groups continue to express concern about official mistreatment and have documented cases of police mistreatment of detainees, particularly during arrests, and guard abuse of prisoners.

There were a record number of complaints against the police force during the year for physical mistreatment. Citizens filed a total of 277 cases with the Personnel Investigation Department (OPZ), the majority of which were for physical mistreatment. The OPZ is an office within the Police Department that is responsible for investigating complaints against officers. It makes recommendations regarding whether or not an officer should be punished internally, or if criminal charges should be brought. Police officers have been charged with brutality, but no figures were available regarding sentencing.

Beatings by police are common. Police officers, who are not trained in prison work, serve as the jailers at local detention facilities, a situation that human rights groups assert contributes to the abuses. There are three state prisons and several detention facilities at police stations, where arrestees are detained until they appear before a judge for trial. Human rights activists are concerned about conditions in the prisons and especially about conditions in local detention facilities, which remain overcrowded. At police stations, guards allow detainees no exercise and only rarely permit them to leave their cells. Detainees and human rights groups also complain about inadequate prison meals, although families are permitted and encouraged to provide food to incarcerated relatives. There are no considerations for individuals who require a specific diet for religious reasons. Human rights monitors report that guards mistreat prisoners, and that medical care and living conditions are inadequate.

Prison conditions are poor, and in many cases they do not meet international standards. Prisoners also mistreat others, and the authorities usually do not punish prisoners for violence against other prisoners. Some prison facilities were renovated in recent years, which improved health and safety conditions. However, most incarceration facilities, especially older jails, remain seriously overcrowded, with as many as four times the number of detainees for which they were designed. In addition, these older prisons are unsanitary. There were several riots at detention facilities during the year, many in protest of poor living conditions. An army squad served as temporary guards following one riot. There was also an outbreak of tuberculosis at the main detention center in Paramaribo, which appeared to have been exacerbated by inadequate sanitary facilities. There were no deaths from the tuberculosis outbreak or prison riots.

In 1999 the human rights group Moiwana '86, a nongovernmental organization (NGO), issued a report that accused prison officials at two of the state prisons of using electrical shocks to discipline prisoners. The report further asserted that different ethnic groups receive different forms and degrees of punishments. Prison offi-

cials denied the accusations, and the Government took no investigative action. Moiwana '86 did not pursue the issue further, although the group asserts that this procedure continues.

Women's jail and prison facilities and conditions are, in general, better than the men's facilities and conditions. There is a wing of an adult prison for boys under age 18 who have committed serious crimes. Juvenile facilities for boys between the ages of 10 and 18 within the adult prison were adequate; educational and recreational facilities were provided. There is no separate facility for girls under the age of 18. They are housed within the women's detention center and the women's section of one of the prison complexes.

Since 1996 Moiwana '86 has monitored the condition of prisoners. Representatives of the group report that in general they have access to prisoners and receive cooperation from prison officials on routine matters. When requesting access to individual prisoners, human rights monitors generally gain access quickly. However, if an individual has filed a complaint with the organization due to physical mistreatment, access often is delayed. The group has asked permission to visit certain prison sections on a regular basis to meet with inmates in general. The authorities granted the group permission to visit one prison on a regular basis, on the condition that they meet with the head of the prison following such visits. The group had not begun these visits at year's end and was waiting for permission to visit other jails and prisons on a regular basis. Moiwana '86 and the police previously cooperated to develop a detention officer training program for police guards working at the local detention facilities. The program consisted of lectures given at the state prison to both guards and prisoners.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the authorities generally respect these provisions in practice. However, delays have caused prisoners who appeal their sentences to remain in prison until a ruling is reached on their appeal, even if they have served the full term of their original sentence. Lawyers have filed complaints, but the problem has not been resolved.

The law provides that the police may detain for investigation for up to 14 days a person suspected of committing a crime for which the sentence is longer than 4 years. During the 14-day period, the law also permits incommunicado detention, which must be authorized by an assistant district attorney or a police inspector. Within the 14-day period, the police must bring the accused before a prosecutor to be charged formally. If additional time is needed to investigate the charge, a prosecutor may authorize the police to detain the suspect for an additional 30 days. Upon the expiration of the initial 44 days, a judge of instruction may authorize the police to hold the suspect for up to 120 additional days, in 30-day increments (for a total of 164 days), before the case is tried. The judge of instruction has the power to authorize release on bail, but that power is used rarely, if ever. On July 14, the lower courthouse burned, and the police suspect arson. The fire caused a delay both in investigations and in court proceedings. As a result, in August the Government enacted emergency legislation that lengthened the initial period an inmate may be held without judicial appearance to 120 days. A judge may twice extend the period by 30 days.

Pretrial detainees, who constitute a large percentage of inmates, routinely are held without being brought before a judge. The average length of pretrial detention varies, for lesser crimes it is from 30 to 45 days, while for more serious crimes, the maximum time is usually utilized. Detainees often are held in overcrowded detention cells at local police stations. Of those held in police custody or detention cells, a steadily growing number already had been convicted but not yet placed in prisons due to a lack of space in prison facilities.

The military police continued to observe the requirement to hand over to the civil police civilians arrested for committing a crime in their presence.

The Constitution does not prohibit specifically forced exile; however, it is not practiced.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, previous disputes over the appointing of judges to the bench undermined the independence of the judiciary in recent years. In 2000 the President appointed a new Solicitor General, and the Court of Justice confirmed him in September. The President has yet to confirm the Acting Attorney General, although he has served in that position since 2000. Appointment as Attorney General is a lifetime position. As a result of the conflict from previous years, the effectiveness of the civilian and military courts still was limited in practice, but at year's end the judiciary appeared to be acting generally independently, albeit inefficiently, since it is hampered by a large case backlog.

The judicial system consists of three lower courts and an appeals court, which is called the Court of Justice; there is no Supreme Court. In July 1998, then-President Wijdenbosch named a new President of the Court of Justice and Prosecutor General without consulting with, and over the objections of, the sitting justices. Most legal authorities interpret the Constitution to require that consultation, and the members of the court refused to recognize the named President of the Court or Prosecutor General. In spite of the continued objections, President Wijdenbosch named additional justices without consultation in 1998. In 1999 the appointed President of the Court of Justice first swore in himself, and then he swore in the new justices. With the change in Government after the 2000 elections, the President of the Court and other disputed judges resigned. The 1987 Constitution calls for the establishment of an independent constitutional court, but this court has never been established.

The Constitution provides for the right to a fair public trial in which defendants have the right to counsel if needed. The courts assign lawyers in private practice to defend indigent prisoners and pays lawyers from public funds. However, the court-assigned lawyers, of which there are four, usually only appear at the trial, if they appear at all. The courts must, and in practice do, free a detainee who is not tried within the 164-day period. Trials are before a single judge, with the right of appeal. Due to the previous conflict over the legitimacy of the president of the Court and the justices and to the fire at the courthouse, there is a large backlog of cases in the judicial system.

Military personnel generally are not subject to civilian criminal law. A member of the armed forces accused of a crime immediately comes under military jurisdiction, and military police are responsible for all such investigations. Military prosecutions are directed by an officer on the public prosecutor's staff and take place in separate courts before two military judges and one civilian judge. The military courts follow the same rules of procedure as the civil courts. There is no appeal from the military to the civil system.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the right to privacy. The law requires warrants, which are issued by quasi-judicial officers who supervise criminal investigations, for searches. The police obtain them in the great majority of investigations. While in the past there were complaints of surveillance of human rights workers by members of the military police and the division of central intelligence, none were reported during the year. There is still a threat of forced resettlement of indigenous populations due to the granting of timber and gold concessions (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights; however, in practice there were a few reports of intimidation and harassment of journalists. Some media members continue to practice occasional self-censorship because of the history of intimidation and reprisals by certain elements of the former military leadership.

In May three men forced a Dutch journalist off the road and beat him. This journalist also had been beaten in 1998. Although both cases are officially still under investigation, no conclusion has been reached in either case. Both attacks appeared to be related to the journalist's investigation of the December 1982 murders (see Section 1.a.).

In July 2000, a group of Bouterse supporters harassed and attempted to beat a journalist outside the National Assembly. The journalist was known to be critical of Bouterse, and the attack took place the first day that Bouterse occupied his new seat in the Assembly. The police intervened, but the Bouterse supporters threatened to find the journalist anywhere in the country.

In April 2000, one of the two daily newspapers, *De West*, was firebombed. While officials maintain that an investigation is continuing, no suspects have been arrested.

The 2 daily newspapers, 11 television stations, and most of the radio stations are owned privately. Three television stations and two radio stations are owned publicly. Three companies, one owned publicly, provide cable television, which includes international channels. Many television and radio stations are broadcast only in a limited area. Two companies, one private and one public, offer unrestricted access to electronic media.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice.

However, in response to a series of public demonstrations in May 1999, the Government announced that it intended to begin enforcing a 1930's law requiring a permit to hold a public demonstration or gathering. After the announcement, in late July 1999, the authorities detained two opposition leaders for demonstrating without a permit but quickly released them. However, subsequent public marches were allowed to proceed without permits.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Citizens may change their residence and workplaces freely and may travel abroad as they wish. Political dissidents who emigrated during the years of military rule are welcome to return. Few of them have chosen to do so, generally for economic reasons. Citizenship is not revoked for political reasons.

Although it is possible for persons to be granted refugee status under special circumstances, there are no provisions in the law for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. There were no such requests during the year.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for this right, but in the past the military prevented its effective exercise. Although the military twice has transferred power to elected civilian governments following coups, 2000 marked the second time since independence from the Netherlands in 1975 that one elected government succeeded another in accordance with constitutional provisions. The Government is still in the process of institutionalizing democratic, constitutional rule.

The Constitution stipulates that power and authority rest with the citizens and provides for the right to change the government through the direct election by secret ballot of a National Assembly of 51 members every 5 years. The National Assembly then elects the President by a two-thirds majority vote. If the legislature is unable to do so, as was the case both in the 1991 and 1996 national elections, the Constitution provides that a national people's assembly, composed of Members of Parliament and regional and local officials, shall elect the President.

The law allows early elections with the concurrence of both the National Assembly and the President; in May 1999, widespread street demonstrations triggered by the declining economy forced the Government of then-President Wijdenbosch to call early elections, which were held in May 2000. After those elections, which observers considered to be generally free and fair, the National Assembly elected NPS leader Ronald Venetiaan as President in August 2000.

The Constitution provides for the organization and functioning of political parties. Many parties and political coalitions are represented in the National Assembly. President Venetiaan formed a cabinet from members of the New Front coalition, comprised of the NPS, a predominantly Creole party; the Progressive Reform Party, a predominantly Hindustani party; the Suriname Labor Party, a political wing of the largest labor union; and *Pertjaja Luhur*, a predominantly Javanese party.

There are historical and cultural impediments to equal participation by women in leadership positions in government and political parties, and the percentage of women in government and politics does not correspond to their percentage of the population. In the past, most women were expected to fulfill the roles of housewife and mother, thereby limiting opportunities to gain political experience or position. Participation by women in politics (and other fields) generally was considered inappropriate. While women have made limited gains in attaining political power in recent years, political circles remain under the influence of traditional male-dominated groups, and women are disadvantaged in seeking high public office. The number of women in the National Assembly increased from 9 to 10 during the year, following the death of a male parliamentarian. In 2000 the Assembly appointed a woman as vice chairperson. The Cabinet includes one woman as Minister of Foreign Affairs, another as Minister of Internal Affairs, and a third as Deputy Minister of Social Affairs. In February the first female member of the Court of Justice was sworn in.

Although the Constitution prohibits racial and religious discrimination, several factors limit the participation of Maroons (descendants of escaped slaves who fled

to the interior to avoid recapture) and Amerindians in the political process. Most of the country's political activity takes place in the capital and a narrow belt running east and west of it along the coast. The Maroons and Amerindians are concentrated in remote areas in the interior and therefore have limited access to, and influence on, the political process. Voters elected the first Amerindians to the National Assembly in 1996. In the May 2000 elections, voters elected eight Maroons and one Amerindian to the National Assembly. There are no Maroons or Amerindians in the Cabinet.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Human rights groups operate without government restriction, investigating and publishing their findings on human rights cases; however, government officials generally are not cooperative or responsive to their views. While in past years there were complaints of surveillance of human rights workers by members of the military police and the division of central intelligence, no such surveillance was reported during the year.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and laws, with the exception of ethnic marriage laws, do not differentiate among citizens on the basis of their ethnic origins, religious affiliations, or other cultural differences. However, in practice several groups within society suffer various forms of discrimination.

Women.—Violence against women is a problem. The law does not differentiate between domestic violence and other forms of assault. The Government has not addressed specifically the problem of violence against women. According to a national women's group, victims continue to report cases of violence against women and complain of an inadequate response from the Government and society to what appears to be a trend of increasing family violence. No reliable statistics are available as to the extent of the problem. However, the NGO Stop the Violence Against Women stated that among those women who report their abuse to the group, the average abused woman is married, between the ages of 25 and 50, has 2 to 3 children, and is employed in a low-paying job. Although the police have been reluctant to intervene in instances of domestic violence, a national women's group noted that police attitudes have improved significantly as a result of training conducted in 1999. For example, two police stations opened victims' rooms during the year in order to provide better services to victims of all kinds of crimes.

There are no specific laws to protect women against sexual exploitation. Prostitution is illegal; however, law enforcement officials do not enforce prostitution laws or arrest women for prostitution unless they are working on the street. Police allow many "brothel-type" establishments to operate, and officials assert that they make random checks on the brothels twice a month to see if women are being abused or held against their will. In spite of this effort, there were credible reports of trafficking in women for prostitution (see Section 6.f.).

There are no laws prohibiting sexual harassment, and it does occur.

Women have the right to equal access to education, employment, and property. Nevertheless, social pressures and customs, especially in rural areas, inhibit their full exercise of these rights, particularly in the areas of marriage and inheritance. Women experience economic discrimination in access to employment and in rates of pay for the same or substantially similar work. A report published in March showed that 89 percent of women are employed in entry-level positions, 9 percent have mid-level jobs, and 3 percent hold management positions. More than 60 percent of women work in traditionally female administrative or secretarial jobs. The Government has not made specific efforts to combat economic discrimination.

The National Women's Center is a government agency devoted to women's issues; there is also a women's policy coordinator. Their effectiveness is limited severely by financial and staffing constraints. The principal concerns of women's groups are political representation, economic vulnerability, violence, and discrimination.

Children.—The Government allocates only limited resources to ensure safeguards for the human rights and welfare of children. School is compulsory until 12 years of age, but some school-age children do not have access to education due to a lack of transportation, facilities, or teachers. School attendance is free; however, most public schools impose a nominal enrollment fee, ranging from \$4 to \$24 (Sf10,000 to Sf60,000) a year. If a family is unable to pay, the Government provides assistance. Families must supply uniforms, books, and miscellaneous supplies. Approximately 70 percent of children in cities attend school. Children in the interior do not receive the same level of education as those in the city, and as few as 40 percent

actually attend school. Both students and parents complained about the Government's decision to double enrollment fees for public school, which occurred both in 1999 and 2000. Fees during the year remained at the 2000 level. Children face increasing economic pressure to discontinue their education in order to work (see Section 6.d.). There is no legal difference in the treatment of girls and boys in education or health care services, and in practice both are treated fairly equally.

There are continuing reports of malnutrition among poor children, but it is difficult to quantify the extent of the problem. In the capital, where most of the country's population is concentrated, there are several orphanages and one privately funded shelter for sexually abused children. Elsewhere, distressed children usually must rely on the resources of their extended families. In 2000 there were credible reports of hospitals refusing to hand newborns over to their mothers until hospital bills were paid in full, sending the infants instead to a state facility. The Government denied that such refusals occurred and stated that there was no such policy. The investigation was dropped by the NGO *Moiwana '86* because it could not prove that the Government was the sole entity in charge of the hospital.

There is no societal pattern of abuse directed against children; however, some children are exploited sexually, and there were credible reports of trafficking in girls for prostitution (see Section 6.f.). There was increased awareness of sexual abuse of children during the year, although the number of reports declined. During the year, a local NGO mounted a campaign against child sexual abuse in a newspaper and on the radio to increase awareness. The legal age of sexual consent is 14; however, it is not enforced strictly, and the Asian Marriage Law lowers the marriage age for children of Asian descent to 12 years for girls and 15 years for boys. Otherwise, one must be 31 years old to marry without parental permission.

Persons with Disabilities.—There are no laws concerning persons with disabilities and no provisions for making private or public buildings accessible to them. There are also no laws mandating that they be given equal consideration when seeking jobs or housing. However, there are some training programs for the blind and others with disabilities. In practice persons with disabilities suffer from discrimination when applying for jobs and services.

Indigenous People.—The Constitution affords no special protection for, or recognition of, indigenous people. Most Amerindians suffer a number of disadvantages and have only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs are concentrated in the capital and its environs, while the majority of Amerindians (as well as Maroons) live in the interior. Government services in the interior are largely unavailable, and much of the infrastructure was destroyed during the 1986–91 domestic insurgencies; progress in reestablishing services and rebuilding the infrastructure has been very slow.

The Government-appointed Consultative Council for the Development of the Interior, provided for in the 1992 peace accords that formally ended the insurgencies, includes representatives of the Maroon and Amerindian communities. However, the Government did not consult with representatives of these communities about the granting of gold and timber concessions on indigenous and tribal lands. Following demonstrations in July by veterans of the Jungle Commando, who played a large role in the insurgencies, their de facto leader Ronny Brunswijk met with the Minister of Regional Development. The meeting resulted in a promise of quarterly meetings to monitor the implementation of the native land rights portion of the 1992 peace accords; however, at year's end neither the quarterly meetings nor the implementation had occurred.

Organizations representing Maroon and Amerindian communities complain that small-scale mining operations, mainly by illegal Brazilian gold miners, dig trenches that cut residents off from their agricultural land and threaten to drive them away from their traditional settlements. Mercury runoff from these operations also contaminates and threatens traditional food source areas. During the year, villagers from the Maroon village of Kayapaati filed a petition with the Inter-American Commission on Human Rights stating that lumber operations were threatening their culture and way of life. The villagers sought observance of a 1762 treaty between their ancestors and Dutch colonial authorities, which granted ownership of the interior to the tribes as long as they occupy the land.

Maroon and Amerindian groups continue to cooperate with each other in order to exercise their rights more effectively. During an annual meeting in September, the Association of Indigenous Village Chiefs in Suriname discussed socio-economic problems, land rights, nature reserves, and biodiversity. The leaders threatened to isolate the western part of the country if the Government did not take measures against uncontrolled logging near indigenous villages. The leaders want the Govern-

ment to honor provisions of the peace accords that establish economic zones around both Maroon and Indigenous communities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution protects the right of workers to associate and to choose their representatives democratically. Nearly 60 percent of the work force is organized into unions, and most unions belong to one of the country's six major labor federations. Unions are independent of the Government but play an active role in politics. The small Labor Party historically has been a very influential force in government.

The Constitution provides for the right to strike. Civil servants have the right to strike, and strikes in both the public and private sectors are common as workers try to regain wages lost to inflation in previous years.

Significant strikes during the year included a 4-day-long fire-fighters' strike, during which union members refused to participate in training, maintenance, and administrative activities. The prison guard force struck three times for 1 to 3 days each time. Nurses at a government hospital conducted a work-to-rule action for more than 2 weeks. The union exempted nurses in critical departments, such as intensive care, from the action.

There are no restrictions on unions' international activities. Unions are active members of both the International Labor Organization and the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—The Constitution explicitly recognizes these rights, and the authorities respect them in practice. Collective bargaining agreements cover approximately 50 percent of the labor force. Bauxite industry workers are organized, but gold miners are not. The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints of such discrimination. Employers must have prior permission from the Ministry of Labor to fire workers, except when discharging an employee for cause. The Labor Ministry individually reviews dismissals for cause; if it finds a discharge unjustified, the employee must be reinstated.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor; however, there were credible reports of trafficking in women and girls for prostitution (see Section 6.f.). The law prohibits forced and bonded labor by children, and such practices (other than trafficking) generally are not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law sets the minimum age for employment at 14 years; however, the Ministry of Labor and the police enforce this law only sporadically. Children under 14 years of age work as street vendors, newspaper sellers, or shop assistants. Working hours for youths are not limited in comparison with the regular work force. School attendance is compulsory until 12 years of age. The Government has not ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor. The law prohibits forced and bonded labor by children; trafficking of girls for prostitution does occur (see Sections 6.c. and 6.f.), but there were no other reports of such practices.

e. Acceptable Conditions of Work.—There is no minimum wage legislation. Including a cost of living allowance, the lowest wage for civil servants is about \$100 (Sf244,000) per month. This salary level makes it very difficult to provide a decent standard of living for a worker and family. Government employees, who constitute approximately 50 percent of the work force of 100,000 persons, frequently supplement their salaries with second or third jobs, often in the informal sector. The President and Council of Ministers set and approve civil service wage increases.

Work in excess of 9 hours per day or 45 hours per week on a regular basis requires special government permission, which is granted routinely. Such overtime work earns premium pay. The law requires one 24-hour rest period per week.

A 10- to 12-member inspectorate in the Occupational Health and Safety Division of the Ministry of Labor is responsible for enforcing legislated occupational safety and health regulations. Resource constraints and lack of trained personnel preclude the division from making regular inspections of industry. Accident rates in local industry do not appear to be high, and the key bauxite industry has an excellent safety record. However, there is no law authorizing workers to refuse to work in circumstances they deem unsafe. They must appeal to the inspectorate to declare the workplace situation unsafe.

f. Trafficking in Persons.—The only laws that prohibit trafficking in persons are dated "white slavery laws" that are enforced rarely, and apply only to women and children. There were credible reports of trafficking in women and girls to the coun-

try for prostitution. Women and girls from the interior are brought to the capital city and also to various gold mining locations in the interior. Several clubs in the capital also are known for recruiting women from Brazil and the Caribbean. While prostitution is illegal, the law is not enforced. The police have an informal agreement with many "hotel" or brothel owners to allow them to proceed with their business as long as they do not hold the women's passports and the women are not mistreated. Random checks are performed on the establishments weekly; in several instances, police officers work as advisers to the owners.

Brothel owners often attempt to hold airline tickets for women whom they have paid to bring to the country, to be sure that the women complete their contracts. The police have arranged a compromise with the brothels and the prostitutes that in such instances where disagreements arise, the police will hold the ticket until an agreement is reached. There have been some reported instances of individuals brought to the country under false pretenses and then forced to work as prostitutes. In cases where the victims have been able to alert the police, the police have returned them to their country of origin. One club owner in Paramaribo was convicted in Brazil during the year for trafficking in women.

There were credible reports of individuals using the country as a transit point to transport Brazilian women to Europe and the United States for purposes of prostitution. In addition, alien smuggling organizations use the country as an intermediate destination to smuggle Chinese and Indian nationals, including women and girls, to the United States, where frequently they are forced into bonded-labor situations.

TRINIDAD AND TOBAGO

Trinidad and Tobago, a member of the Commonwealth of Nations, is a parliamentary democracy in which there have been generally free and fair elections since independence from the United Kingdom in 1962. A bicameral parliament and a prime minister govern the country. Parliament elects a president, whose office is largely ceremonial but does have some appointive power. Prime Minister Basdeo Panday's United National Congress (UNC), which was returned to power in generally free and fair elections in 2000, held a narrow majority of 19 seats in the 36-member parliament until the December 10 elections. Those elections yielded an 18-18 balance between the UNC and the People's National Movement (PNM). Both parties looked to the President to appoint as Prime Minister the candidate most likely to command a majority in Parliament. When the President appointed PNM leader Patrick Manning as Prime Minister, the UNC declared the decision unconstitutional. At year's end, the PNM had appointed a cabinet, the UNC had called for new elections, and the Parliament had not been called into session. A 12-member elected House of Assembly handles local matters on the island of Tobago. The judiciary is generally independent.

The Ministry of National Security controls the police service and the defense force, which are responsive to civilian authority. An independent body, the Police Service Commission, makes all personnel decisions in the police service, and the Ministry has little direct influence over changes in senior positions. There were credible reports that police and prison guards committed some human rights abuses.

The country's population is approximately 1.3 million; oil and natural gas production and related downstream petrochemical industries form the basis of the market-based economy. The service sector is the largest employer, although continued industrialization has created many jobs in the construction industry. Agriculture, while contributing only 4 percent to gross domestic product (GDP), remains an important employer, both at the subsistence and commercial level. Although per capita GDP was approximately \$6,900, 11.1 percent unemployment contributes to a skewed income distribution, which has not improved markedly despite economic growth of 3.8 percent during the year. Government efforts to address this problem by further diversification into manufacturing and tourism have been only partially successful.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Nonetheless, there was one death in custody, and police and guard abuse of prisoners, poor prison conditions, and significant violence against women remain problems.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Unlawful Deprivation of Life.—In February the police arrested Danrajh Singh, a former cabinet minister, and charged him with the December 1999 murder of politician Hanraj Sumairsingh. Despite public speculation about possible political motives, indications are that corruption was at the root of the incident. At year's end, Singh was in a hospital for psychiatric evaluation, and a preliminary inquiry was under way. In 2000 the police had arrested and charged a member of Jamat al Muslimeen, a radical group, with this murder; he has become the prosecution's main witness in the case.

On June 25, prisoner Anton Cooper was found dead in his cell. His relatives alleged that police and prison officials had beaten him. His death certificate stated that he died from asphyxia associated with multiple blunt traumatic injuries. The Prison Commissioner called for a full report on his death, and at year's end, a court hearing on the coroner's inquest was pending.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were credible reports of police and prison personnel abusing prisoners in incidents that involved beating, pushing, and verbal insults. An Amnesty International report stated that use of excessive force and ill treatment of prisoners and suspects by police and guards continued. The president of the Police Social and Welfare Association admitted that there have been incidents of abuse, but he asserted that they are infrequent.

A Sierra Leonean asylum seeker claimed that he was subject to frequent beatings by guards and other prisoners while in detention (see Section 1.d.). Relatives of prisoner Anton Cooper alleged that police and prison officials beat him to death (see Section 1.a.).

A 1999 ruling permits corporal punishment for certain crimes, including aggravated assault, rape, deliberate shooting, and robbery with violence. There were no sentences of corporal punishment during the year.

Police corruption is a problem but is not pervasive. The Police Complaints Authority receives complaints about the conduct of any police officer and monitors the investigation of complaints.

Prison conditions at two of the three largest men's prisons generally meet international standards. However, conditions are worse in the Port of Spain prison, which dates from the 1830's. It was designed for 250 inmates but housed 863 prisoners at year's end. Diseases such as chicken pox, tuberculosis, HIV/AIDS, and viruses spread easily, and prisoners sometimes must purchase their own medication. Overcrowding is a problem in 5 of 8 facilities, where some 3,400 inmates were housed in prisons built for 1,550. A new maximum security prison, opened in late 1998, has a capacity of 2,450. However, at year's end, it was not fully operational, held approximately 820 inmates, and had done little to relieve the overcrowding in the detention system.

Pretrial detainees are held separately from convicted prisoners, although they may be in the remand section of the same facilities as convicted prisoners.

Conditions at the women's prison generally meet international standards.

Children between the ages of 15 and 19 are held at the Youth Training Center. Younger children are sent to the Boy's Industrial School.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest or detention, and the Government generally observes this prohibition.

A police officer may arrest a person either based on a warrant issued or authorized by a magistrate or without a warrant when the officer witnesses commission of the alleged offense. For less serious offenses, the authorities typically bring the accused before a magistrate by way of a summons, requiring the accused to appear within 48 hours, at which time they may enter a plea. For more serious offenses, when the accused is brought before the court, the magistrate proceeds with a preliminary inquiry or, alternatively, commits the accused to prison on remand or allows the accused to post bail until the inquiry. The court may and does customarily grant bail to any person charged with any offense other than murder, treason, piracy, hijacking, or any offense for which death is the penalty fixed by law. In cases in which bail is refused, magistrates advise the accused of their right to an attorney and, with few exceptions, allow them access to an attorney once they are in custody and prior to any interrogation.

The Minister of National Security may authorize preventive detention in order to prevent actions prejudicial to public safety, public order, or national defense, and the Minister must state the grounds for the detention. A person detained under this

provision has access to counsel and may have the detention reviewed by a three-member tribunal established by the Chief Justice and chaired by an attorney. The Minister must provide the tribunal with the grounds for the detention within 7 days of the detainee's request for review, which shall be held "as soon as reasonably practicable" following receipt of the grounds. There have been no reports that the authorities abused this procedure.

The Constitution prohibits forced exile, and it is not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair judicial process. After the Chief Justice warned in 1999 that the executive branch was encroaching upon judicial independence, two independent commissions examined the matter. A Commonwealth commission concluded that the judiciary was not threatened by the Attorney General's involvement in judicial administration; however, a law association group recommended that executive requests should be handled by the Prime Minister, not the Attorney General. The Government accepted the conclusions of the commission that it had appointed, rather than those of the law association group.

The Judiciary is divided into a Supreme Court of Judicature and the Magistracy. The Supreme Court is composed of the Court of Appeal and the High Court; the Magistracy includes the summary courts and the petty civil courts.

All criminal proceedings commence with the filing of a complaint in the summary court. Minor offenses are tried before the magistrate. For more serious offenses, the magistrate must conduct a preliminary inquiry. If there is sufficient evidence to support the charge, the accused is committed to stand trial before a judge and jury of the High Court. All civil matters are heard by the High Court. Both civil and criminal appeals may be filed with the local court of appeal and ultimately to the Privy Council in London. There has been some progress toward establishing a regional Caribbean Court of Justice, which would replace appeals to the Privy Council; the measure awaits ratification by the member states.

The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right. All criminal defendants have the right to an attorney. In practice the courts sometimes appoint attorneys for those persons charged with indictable offenses (serious crimes) if they cannot retain one on their own behalf. The law requires a person accused of murder to have an attorney. An indigent person may refuse to accept an assigned attorney for cause and obtain a replacement.

Despite serious efforts to improve the administration of justice, problems remain in some areas. Police corruption is also a problem but is not pervasive. Trial delays, while not as extensive as in past years, remain a problem: a person prosecuted for a serious offense is committed for trial or discharged within an average of 22 months in noncapital cases and 13 months in capital cases. The High Court showed improvement in reducing trial backlogs, but they remained significant at the magistrate court level.

In 2000 Parliament passed the Integrity in Public Life Act, which established an Integrity Commission with jurisdiction and control over the financial activities and ethical conduct of persons in public life and persons exercising public functions. In November a court sentenced an attorney to 7 years in prison for soliciting \$6,600 (TT\$40,000) from a client's wife as an inducement for a magistrate to grant bail to the client.

In the case of charges brought against a number of justices of the peace following a 1997 inquiry into various allegations of corruption and illegal conduct, the authorities brought charges against 11 justices of the peace. At year's end, the courts had dismissed the cases against 5 justices; the other 6 cases remained pending. There was only one reported case of corruption involving a justice of the peace during the year.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such practices, and the Government generally respects these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. An independent press and a functioning democratic political system combine to ensure freedom of speech and of the press.

The three major daily newspapers freely and often criticize the Government in editorials. Widely read weekly tabloids tend to be extremely critical of the Government. All newspapers are privately owned. The two local television newscasts, one

of which appears on a state-owned station, are sometimes critical of the Government but generally do not editorialize.

Over the past several years, the Media Association of Trinidad and Tobago and the Publishers' Association have expressed concern about media treatment and access to the Government. For its part, the Government sometimes charges unfair treatment by the media, which the press views as unwarranted criticism. In 1997 when Prime Minister Panday labeled Ken Gordon, head of a major media corporation, a "pseudo-racist" for editorials about the rise of the ruling UNC party, Gordon filed suit for libel. In November 2000, a court found the Prime Minister guilty of libel and ordered him to pay damages to Gordon. Panday's appeal of that decision still was pending at year's end.

A Board of Film Censors is authorized to ban films that it considers to be against public order and decency or contrary to the public interest. This includes films that it believes may be controversial in matters of religion or race, or that contain seditious propaganda. In practice films rarely are banned.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. The police routinely grant the required advance permits for street marches, demonstrations, or other outdoor public meetings. Amendments to the Summary Offences Act require that permits for public meetings and rallies be applied for 48 hours in advance instead of 24 hours, and make it an offense to hold a public meeting without a permit under the guise of conducting an exempted religious, educational, recreational, or sports function. In practice the amendments have not restricted unduly public meetings, demonstrations, or exempted events. During a January standoff between the Prime Minister and the President over the extent of executive power in appointing Ministers (see Section 3), the police denied a request for a street march from the National Association for the Empowerment of African People in support of the President's position. The police justified its refusal on grounds of threats to national security and public disturbance. There was no court challenge to the police decision.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. Registration or other governmental permission to form private associations is not required.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

The Government acceded to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol in 2000, and the Convention entered into effect on February 8. At year's end, the Government was drafting legislation to implement obligations accepted under the Convention. Until Parliament approves the legislation, there is no provision for persons to claim or be classified as refugees or asylum seekers; the Ministry of National Security's Immigration Division handles any such requests on a case-by-case basis, although asylum seekers may face long prison detentions. For example, the authorities detained Alie Marah, a Sierra Leonean who requested political asylum in 2000, in prison for 15 months as an illegal immigrant. Marah claimed that he was subject to frequent beatings by guards and other prisoners (see Section 1.c.). While later released into the care of a local charity, his case remained unresolved at year's end.

The issue of the provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic elections, deemed generally free and fair by observers, held on the basis of universal suffrage. Parliamentary elections are held at intervals not to exceed 5 years, and a general election was held on December 10. Elections for the Tobago House of Assembly are held every 4 years. The Constitution extends the right to vote to citizens as well as to legal residents at least 18 years of age who are citizens of other Commonwealth countries.

In the 1995 general elections, the former opposition UNC and the ruling PNM each won 17 seats in the 36-member Parliament. The National Alliance for Recon-

struction (NAR) won two seats and joined with the UNC to form a new government. Basdeo Panday became the country's first Prime Minister of East Indian descent. The PNM is primarily but not exclusively Afro-Trinidadian; the UNC is primarily but not exclusively Indo-Trinidadian. In general elections in December 2000, voters returned Prime Minister Panday and his UNC party to power with a 2-seat majority, winning 19 seats. The PNM won 16 seats and the NAR 1 seat. Election observers noted that the elections were well-organized, peaceful, free, and fair.

In January a month-long standoff ensued when the President refused to confirm seven of the Prime Minister's ministerial and senatorial appointments, asserting that the Prime Minister was exceeding his authority in appointing defeated election candidates. Eventually the President assented to the appointments.

General elections held on December 10 resulted in an evenly divided Parliament, with both major parties winning 18 seats. Election observers reported that the elections were transparent and generally conducted in a free, orderly, and peaceful manner. Observers also expressed concern about the accuracy of voters' lists, since a number of persons found their names deleted on election day. Both parties looked to President A.N.R. Robinson to break the deadlock by appointing as Prime Minister that candidate most likely to be able to command a majority in Parliament. When the President appointed PNM leader Patrick Manning, the UNC declared the decision unconstitutional, and refused to participate in an earlier agreement on the appointment of a Parliamentary Speaker, among other things. At year's end, the PNM had made all of its cabinet appointments, the UNC had called for new elections, and the Parliament had not been called into session.

There are no specific laws that restrict the participation of women or minorities in government or the political parties. Women hold many positions in the Government and political party leadership, but the percentage of women in government and politics does not correspond to their percentage of the population. In the December 10 elections, voters elected 6 women to the 36-seat House of Representatives. Prior to the elections, 8 of 31 appointed Senators were women and 2 women served as ministers. Former Prime Minister Panday had appointed women as acting Prime Minister on several occasions. At year's end, Prime Minister Manning appointed 7 women to his 29-member Cabinet.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. While government officials are generally cooperative, the Government has attacked strongly Amnesty International's criticism of prison conditions and due process. An independent Ombudsman receives complaints relating to governmental administrative issues and investigates complaints of human rights abuse. The Ombudsman can make recommendations but does not have authority to force government offices to take action.

In 1998 the Government sought to curtail appeals by death row inmates to the Inter-American Commission on Human Rights (IACHR) and the U.N. Human Rights Committee. The Government's moves were prompted by a Privy Council ruling that failure to execute a condemned prisoner within 5 years of sentence constitutes cruel and unusual punishment in violation of the Constitution. To meet this 5-year deadline, the Government sought to impose time limits on the IACHR and the U.N. Committee to ensure that applications before these bodies were completed within 8 months.

However, the Privy Council subsequently ruled that by ratifying a treaty that provides for individual access to an international body, the Government made that process part of the domestic criminal justice system, thereby extending the scope of the due process clause of the Constitution, and that executing a prisoner with such an appeal pending would constitute a violation of due process. The Government placed on hold execution proceedings for prisoners with pending petitions before the IACHR or the U.N. Committee until determinations on those petitions are reached.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Government generally respects in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or sex. In October 2000, Parliament passed an Equal Opportunities Bill that made discrimination illegal on the basis of race, ethnicity, sex, religion, marital status, or disability. At year's end, the act had not yet been proclaimed, as the Government still was taking steps to establish a commission to investigate cases of alleged discrimination and a tribunal to judge complaints. In the

meantime, the authorities refer complaints that would be addressed by the act to the Ombudsman and relevant government departments for appropriate action (see Section 4).

Women.—Physical abuse of women continued to be a significant problem. There has been increased media coverage of domestic abuse cases and signs of a shift in public opinion, which had held that such cases were a private matter. The Government has taken action to improve aid to victims. Murder, rape, and other crimes against women are reported frequently; 30 percent of all female homicide victims were believed to have been killed by their husbands or lovers. The 1991 Domestic Violence Act was intended to facilitate court-issued restraining orders to protect victims and extended protection to common-law relationships, a frequent form of marital union. In 1999 a new Domestic Violence Act strengthened provisions of the 1991 law and allowed easier access for police in instances of domestic violence. Although the original legislation did not result in a large number of restraining orders, the number issued has increased since enactment of the 1999 law. The establishment of a community police division improved police responsiveness to reports of domestic abuse, but some police officers are reportedly unsympathetic or reluctant to pursue such cases, resulting in underreporting of crimes of violence against women. There were more than 4,000 complaints of spousal abuse during 2000; police handled an average of 9 cases a day that led to reports by victims, with the actual incidence of such abuse considered to be much higher. Two government ministries, operating independently, direct the nongovernmental organizations (NGO's) that run most of the country's social programs addressing domestic violence, including five shelters for battered women.

Rape, spousal abuse, and spousal rape are criminal offenses. A rape crisis center offers counseling for rape victims and perpetrators on a voluntary basis. During the year, a government-sponsored hot line received 3,169 calls, of which 1,393 were referred to shelters or received counseling or other assistance. The hot line is for victims of rape, domestic violence, or other violence against women.

Prostitution is illegal, and the authorities brought charges of soliciting for the purpose of prostitution against 26 persons during the year. Of those, 20 were female and 6 male.

The law does not prohibit sexual harassment, and it is a problem.

Many women hold positions in business, the professions, and government, but men tend to hold the most senior positions. There is no law or regulation requiring equal pay for equal work.

The Division of Gender Affairs in the Ministry of Culture and Gender Affairs is charged with protecting women's rights in all aspects of government and legislation. Several active women's rights groups also exist.

Children.—The Government's ability to protect children's welfare is limited by a lack of funds and expanding social needs. Education is free and compulsory through primary school, usually ending at 11 or 12 years of age. Some parts of the public school system seriously fail to meet the needs of the school age population due to overcrowding, substandard physical facilities, and occasional classroom violence by gangs. The Government has committed resources to building new facilities and has expanded access to free secondary education.

There is no societal pattern of abuse directed at children. The Domestic Violence Act provides protection for children abused at home. Abused children are usually placed with relatives if they are removed from the home. If there is no relative who can take them, there are several government institutions and NGO's that accept children for placement.

In June the Children (Amendment) Act of 2000 took effect. This act increased the upper age in the definition of a child from 14 to 18 years of age, abolished corporal punishment as a penal sanction for children under 18, and prohibited sentencing a person between 14 and 18 years of age to prison. A companion law established a new Children's Authority to license and monitor community residences, foster homes, and nurseries, and to investigate complaints about the care of children in such locations. At year's end, the Government was taking steps to appoint a board to manage the new authority.

The law prohibits child prostitution, but there were occasional reports of it.

Persons with Disabilities.—There is no legislation that specifically enumerates or protects the rights of persons with disabilities or mandates the provision of access to buildings or services. The lack of access to transportation, buildings, and sidewalks is a major obstacle for persons with disabilities. The Government provides some public assistance and partial funding to a variety of NGO's, which in turn provide direct services to disabled members or clients.

Indigenous People.—Members of a very small group in the population identify themselves as descendants of the original Amerindian population of the country.

They maintain social ties with each other and other aboriginal groups and are not subject to discrimination.

National/Racial/Ethnic Minorities.—Various ethnic and religious groups live together peacefully, generally respecting one another's beliefs and practices. However, at times racial tensions appear between Afro-Trinidadians and Indo-Trinidadians. Each group comprises about 40 percent of the population. The private sector is dominated by Indo-Trinidadians and persons of European, Middle Eastern, or Asian descent. Indo-Trinidadians also predominate in agriculture. Afro-Trinidadians are employed in disproportionate numbers in the civil service, police, and military. Some Indo-Trinidadians assert that they are excluded from equal representation in the civil service due to racial discrimination. Since Indo-Trinidadians constitute the majority in rural areas and Afro-Trinidadians the majority in urban areas, competition between town and country for public goods and services often takes on racial overtones.

In 1996 there were reports that several popular recreational clubs refused entry to Afro-Trinidadians and dark-skinned Indo-Trinidadians. The reports led to criticism of racism by the local press, and in 1997 Parliament passed three laws prescribing license revocation for establishments found guilty of engaging in discriminatory practices. There was no information available regarding application of this legislation in practice.

Section 6. Worker Rights

a. The Right of Association.—The 1972 Industrial Relations Act provides that all workers, including those in state-owned enterprises, may form or join unions of their own choosing without prior authorization. Union membership has declined, with an estimated 25 to 30 percent of the work force organized in 19 active unions. Most unions are independent of the Government or political party control, although the Sugar Workers' Union historically was allied with the UNC. Prime Minister Panday formerly was president of the Sugar Workers' Union.

The law prohibits antiunion activities before a union is registered legally, and the Ministry of Labor enforces this provision when it receives a complaint. A union also may bring a request for enforcement to the Industrial Court. All employees except those in "essential services," which include the police and many other government employees, have the right to strike. There were no significant strikes during the year.

The Labor Relations Act prohibits retribution against strikers and provides for grievance procedures if needed. A special section of the Industrial Court handles mandatory arbitration cases. Arbitration agreements are enforceable and can be appealed only to the Industrial Court. Most observers consider this court to be impartial; it consists of government, business, and labor representatives.

Unions freely join federations and affiliate with international bodies. There are no restrictions on international travel or contacts.

b. The Right to Organize and Bargain Collectively.—The Industrial Relations Act establishes the right of workers to collective bargaining. The Ministry of Labor's conciliation service maintains statistical information regarding the number of workers covered by collective bargaining agreements and the number of antiunion complaints filed.

The Industrial Court may order employers who are found guilty of antiunion activities to reinstate workers and pay compensation, or it can impose other penalties including imprisonment. When necessary the conciliation service also determines which unions should have senior status.

There are several export processing zones (EPZ's). The same labor laws apply in the EPZ's as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor.—The law does not prohibit specifically forced or compulsory labor, but there were no reports that it was practiced. There were also no reports of forced or bonded labor by children.

d. Status of Child Labor Practices and Minimum Age for Employment.—The minimum legal age for workers is 12 years. Children from 12 to 14 years of age may work only in family businesses. Children under the age of 18 legally may work only during daylight hours, with the exception of 16- to 18-year-olds, who may work at night in sugar factories. The Ministry of Labor and Small and Micro-Enterprises is responsible for enforcing child labor provisions, but enforcement is lax because there are no established mechanisms for receiving, investigating, and addressing child labor complaints. The Ministry is seeking assistance from the International Labor Organization (ILO) to address the problem. There is no organized exploitation of child labor, but children are seen begging or working as street vendors. The Government has not ratified ILO Convention 182 on elimination of the worst forms of child

labor. The law does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work.—The 1998 Minimum Wages Act established a minimum wage of about \$1.10 (TT\$7.00) per hour. The minimum wage does not provide a decent standard of living for a worker and family, but most workers earn more than the minimum. The Ministry of Labor enforces the minimum wage regulations.

The Minimum Wages Act also established a 40-hour workweek, time-and-one-half pay for the first 4 hours of overtime on a workday, double pay for the next 4 hours, and triple pay thereafter. For Sundays, holidays, and off days, the act also provides for double pay for the first 8 hours and triple pay thereafter. Daily rest periods and paid annual leave form part of most employment agreements.

The Factories and Ordinance Bill of 1948 sets requirements for health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. The Industrial Relations Act protects workers who file complaints with the Ministry of Labor regarding illegal or hazardous working conditions. If it is determined upon inspection that hazardous conditions exist in the workplace, the worker is absolved for refusing to comply with an order that would have placed him or her in danger.

f. Trafficking in Persons.—While there are no laws that specifically address trafficking in persons, the illegality of such acts is covered broadly in a variety of laws that address kidnaping, labor conditions, pimping and prostitution, slavery, and indentured servitude. There were no reports of persons being trafficked to, from, or within the country.

URUGUAY

The Oriental Republic of Uruguay is a constitutional republic with an elected president and a bicameral legislature. In 1999 in free and fair elections voters elected Senator Jorge Batlle of the Colorado party as President; he assumed office on March 1, 2000, for a 5-year term. In legislative elections in 1999 the left-of-center Broad Front coalition won approximately 40 percent of the vote in a four-party race, thus constituting the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together control over half of the seats in the legislature. The judiciary is generally independent.

The Interior Ministry administers the country's police departments and the prison system and is responsible for domestic security and public safety. The military is responsible for external security within the prison system. The civilian authorities exercise effective control over the security forces. Unlike the previous year, there were no reports of human rights abuses by the police during the year.

The country's population is estimated at 3.2 million. The economy is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The leading exports are meat, leather, and rice. The unemployment rate was estimated at 16 percent in July. The economy contracted by 1.3 percent during the year, following a decline of 2.8 percent in 2000. Annual per capita income was about \$6,000 in 2000.

The Government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of dealing with individual instances of abuse; however, there were problems in some areas, principally poor prison conditions, and delays in the judicial process. Court cases sometimes last for many years, resulting in lengthy pretrial detention. Violence against women and societal discrimination against women and the black minority are problems. There was one report that children had been trafficked into the country.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Other Unlawful Taking of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents. At least two prisoners were killed by other prisoners during the year (see Section 1.c.).

The 1986 Amnesty Law prohibits criminal prosecution of members of the security forces who perpetrated extrajudicial killings, torture, and other abuses during the 12 years of military rule from 1973–85. However, some victims and relatives of victims had success using the civilian courts to seek redress.

An appeals court decision in December overturned a 1998 trial-level court decision awarding damages to 12 former political prisoners and their families who sued the Government for damages suffered as a result of their imprisonment, torture, and in three cases death in custody during the military dictatorship. Although in 1998 a trial-level court ordered the Government to pay each plaintiff approximately \$93,600 (1.17 million pesos) in damages, an appellate-level court later reduced this award to approximately \$16,850 (210,600 pesos) per person for 11 of the cases and \$23,640 (295,500 pesos) for the other case. The plaintiffs appealed the trial-level court's decision. In December Appellate Court Judge Rolando Vomero dismissed the case, on the grounds that since the individual responsible for the deaths, then-Minister of Defense Enrique Magnani, died in 1987, there was no one to charge with the crime (see Section 1.c.).

b. Disappearance.—There were no reports of politically motivated disappearances. The 1986 Amnesty Law required the Government to investigate the fate of those citizens who were detained and who then disappeared during the dictatorship; the first three administrations following the return to democracy consistently refused to do so. In 2000 the new Government for the first time undertook such an effort, and these efforts continued during the year.

In August 2000, President Batlle created a National Peace Commission in order to clarify the fate of 179 Uruguayans believed to have disappeared for political reasons during the dictatorship (137 in Argentina, 30 in Uruguay, 7 in Chile, 3 in Paraguay, 1 in Bolivia, and 1 in Brazil). The Commission was charged with receiving and analyzing information relevant to the disappeared persons. It is to prepare individual summaries of its conclusions as to the fate of each person and to recommend legal measures that the Government should adopt to compensate the families of the victims and resolve the victims' legal status, such as by declaring them legally dead. By year's end, the Commission had discovered the fates of up to 16 missing Uruguayans; with the families' permission results in 8 cases were released to the press. A poll showed that more than 80 percent of the population approves of the Peace Commission, which consists of six members appointed by the President and operates under the supervision of the office of the President. One retired military officer told the press that "hundreds" of current and retired officers serving during the period of military rule had adopted a pact of silence with regard to the disappearances, and the military has stated that they will not apologize for their actions during this time. Although the Commission was created with an initial mandate of 120 days, in December 2000 that mandate was extended and the President has stated that it will continue to be extended as long as needed. The Commission's findings are shared directly with the relatives of the persons who disappeared, but no information is made public unless the families agree.

Some persons have sought justice in non-Uruguayan courts for human rights violations that occurred during military rule. In 1999 Sara Mendez filed papers in an Argentine court formally accusing five retired members of the Uruguayan military with the 1976 kidnaping of her infant from her Buenos Aires home. The case remained pending in Argentine courts. During the year, Mendez gave testimony on several occasions and traveled through Europe to seek international support for her case; and the Peace Commission was working on the case at year's end. An Italian prosecutor continued to investigate charges brought in an Italian court in 1999 against four present and former members of the military and one police officer accused of responsibility in the disappearance of eight Italian-Uruguayan dual nationals.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits brutal treatment of prisoners; unlike in the previous year, there were no reports of abuses by police. On occasion such abuse had resulted in forced confessions (see Section 1.d.).

The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. An internal police investigative unit receives complaints from any person concerning possible noncriminal police abuse of power, but it is understaffed and only can issue recommendations for disciplinary action. Ministry of Interior authorities act promptly if accusations of alleged police brutality are reported. Police officers charged with less serious crimes may continue on active duty; those charged with more serious crimes are separated from active service until a court resolves their cases. The 1995 Public Security Law requires a proportional use of force by the police and the use of weapons only as a last resort, in accordance with U.N. codes regarding the use of force; and this law is respected in practice. During the year a judge sentenced a female police officer to a prison term for shooting into a group of men who were attacking her in Montevideo.

The appeal of a group of 12 former political prisoners (and their survivors) to reverse a reduction in the award made by a trial court for the damages that they suf-

ferred due to their imprisonment and torture was dismissed in December (see Section 1.a.).

Conditions in prisons for the approximately 5,230 prisoners remain poor but not life threatening. A 1997 legislative human rights commission report criticized the "excessive use of force and abuse of authority" by prison guards and officials, and stated that sanitation and health standards in the prison system were "unacceptable." This report reflected the work of a previous commission that in 1996 published a report to the Government citing overcrowding, lack of staff training, corruption, and physical violence as problems. Due to budget problems, such conditions have not improved since these reports. Prisons remain overcrowded, with up to eight prisoners sharing a cell. There is also a need for 400 more corrections officers. During the year, the army was called in to guard the perimeter of at least one prison, COMCAR, located in San Jose Province, following problems that included multiple escapes and prisoners taking a film crew hostage. At least two prisoners were killed in COMCAR during the year, in reprisals for providing information to the authorities. Prisoners often must supplement prison provisions with bedding, medicines, and toiletries brought by friends or relatives. According to press reports and a study conducted by Servicio Paz y Justicia (SERPAJ), a nongovernmental organization (NGO), HIV-positive inmates sometimes received inadequate medical treatment.

Female prisoners are held in separate facilities from male prisoners; most are held in a women's prison in Montevideo. Some provincial prisons have separate facilities for their small number of female prisoners. In general conditions for female prisoners are significantly better than for male prisoners, in large part because of the small number of female inmates.

Minors are held in institutions operated by the National Institute for Minors (INAME). The 1995 Public Security Law allows the Government to put minors with a record of violent crimes in adult prisons if INAME has no room in its own institutions. Even though the law stipulates that minors would occupy separate facilities within the prisons, human rights groups adamantly opposed this provision. As a result, INAME decided not to send minors to adult prisons and did not do so during the year. Juvenile offenders are separated according to their gender, age, and the severity of their crime. Juveniles who commit serious crimes are incarcerated in juvenile detention centers, which resemble traditional jails and have cells. Conditions in these facilities are generally better than those in ordinary jails, in part because they are less crowded. Juvenile offenders who pose less of a threat to society are placed in halfway house facilities, oriented toward rehabilitation, in which a group of offenders lives together with adult counselors. These facilities provide educational, vocational, and other opportunities, and the juvenile offenders are able to enter and leave without restriction.

The Government did not permit general prison visits by independent human rights monitors during the year, citing safety issues as the reason. However, inmate visitation continued and foreign diplomats could visit prisons.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires the police to have a written warrant issued by a judge before making an arrest, and the authorities generally respected this provision in practice. The only exception is when the police apprehend the accused during commission of a crime. The Constitution also provides the accused with the right to a judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. In June 2000, the President signed a new law that obligates police officers to inform individuals of the reason for their arrest. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. It was during this period of time that police sometimes had abused detainees, occasionally resulting in forced confessions (see Section 1.c.); however, unlike the previous year, there were no reports of such abuse during the year.

The law stipulates that confessions obtained by the police before a detainee appears before a judge and attorney (without the police present) have no validity. Further, should a detainee claim that he has been mistreated, by law the judge must investigate the charge.

If the detainee cannot afford a lawyer, the courts appoint a public defender. If the crime carries a penalty of at least 2 years in prison, the accused person is confined during the judge's investigation of the charges unless the authorities agree to release the person on bail (which seldom happens). As a result, as of mid-2000 approximately 73 percent of all persons incarcerated were awaiting a final decision in their case (compared with 68 percent in mid-1999). Because of the slowness of the judicial process, the length of time detainees spend in jail before the judge issues a verdict may exceed the maximum sentence for their crime if convicted. The uncer-

tainty as to how long one may be imprisoned is a factor creating tension within the country's prisons.

The Government does not use forced exile. The Constitution provides that in extreme cases of national emergency an individual may be given the option to leave the country as an alternative to trial or imprisonment; however, this option has not been exercised for at least 2 decades.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

The Supreme Court heads the judiciary system and supervises the work of the lower courts. A parallel military court system operates under a Military Justice Code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

Trial proceedings usually are based on written arguments to the judge, which are not made public routinely. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. Individual judges may hear oral arguments at their option. Most judges choose the written method, a major factor slowing the judicial process. There is no legal provision against self-incrimination, and judges may compel defendants to answer any question they pose. Either the defense attorney or the prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

A 1997 law to reform and modernize the Criminal Code provides for more oral argument by prosecution and defense attorneys, less investigative responsibility for judges, and is expected to accelerate the pace of criminal trials. Although the law was to take effect in 1998, budget constraints have resulted in repeated postponement of its implementation, and it is not scheduled for implementation until 2004.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the authorities sometimes limit freedom of the press and the authorities may abridge these rights if persons are deemed to be inciting violence or “insulting the nation.” All elements of the political spectrum freely express their viewpoints in both print and broadcast media.

Montevideo has 5 daily newspapers and 10 widely read weeklies; there are also approximately 80 other weekly and a few daily newspapers throughout the country. Montevideo has one government-affiliated and three commercial television stations. There are about 150 radio stations, 34 television stations, and 200 cable television stations in the country.

The law stipulates that expression and communication of thoughts and opinions are free, within the limits contained in the Constitution, and it outlines methods of responding to “inexact or aggravating information.” The law calls for between 3 months’ and 2 years’ imprisonment for “knowingly divulging false news that causes a grave disturbance to the public peace or a grave prejudice to economic interests of the State” or for “insulting the nation, the State, or their powers.” The authorities rarely use this law and did not do so during the year.

Human rights activists and journalists have alleged that state enterprises such as the telephone and electric companies on occasion have withheld advertising from independent media that are critical of the Government and have favored media friendly to the Government with extensive paid advertising.

The national university is autonomous, and the Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedoms of assembly and association, and the Government generally respects them in practice.

In May, as in prior years, thousands of persons marched in memory of the persons who disappeared during the rule of the dictatorship (see Section 1.b.).

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

There is a strict separation of church and state, and religious instruction in public schools is prohibited.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice.

The Government grants refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government grants first asylum in cases in which a refugee's claims are verified by the UNHCR. The Government continues to cooperate with international organizations to provide temporary residence to human rights advocates who claim that they are subject to persecution in their home country; if still at risk after 1 year, the person may apply for refugee status.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country is a multiparty democracy with mandatory voting for those 18 years of age or older. The Colorado party, the National (Blanco) party, the Broad Front coalition, and the New Space party are the four major political groupings.

In November 1999, in free and fair elections, voters elected Senator Jorge Batlle of the Colorado party President, and he assumed office on March 1, 2000, for a 5-year term. In legislative elections in October 1999, the left-of-center Broad Front coalition won approximately 40 percent of the vote in a four-party race, thus constituting the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together control over half of the seats in the legislature.

The percentage of women and minorities in government and politics does not correspond to their percentage in the population. Three of 30 senators and 13 of 99 deputies are women. None of the 13 cabinet ministers are women. There are no female justices on the Supreme Court. In 2000 for the first time, an Afro-Uruguayan elected as an alternate deputy substituted in legislative sessions for an absent deputy for approximately 10 days.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views.

In August 2000, the President created a Peace Commission to clarify the circumstances surrounding the persons who disappeared for political reasons during the 1973–85 military dictatorship (see Section 1.b.).

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and the law prohibit discrimination based on race, sex, religion, or disability. Despite these provisions, discrimination against some groups exists.

Women.—Violence against women continues to be a serious problem. A 1999 Ministry of Public Health study projected that within 5 years, domestic violence would constitute the second most prevalent threat to public health, after traffic accidents. The law provides for sentences of 6 months to 2 years in prison for a person found guilty of committing an act of violence or of making continuing threats to cause bodily injury to persons related emotionally or legally to the perpetrator. The State-owned telephone company provides a free nationwide hot line answered by trained NGO employees for victims of domestic violence. Between January and September, the service received 2,596 calls, a rate lower than in previous years. Persons calling the hot line are provided counseling, free legal advice, and may be referred to NGO's that can provide further social services. A law signed in June 2000 increased sentences for rape and certain other sexually related crimes. The Criminal Code covers spousal abuse and spousal rape, although criminal charges rarely are initiated for those crimes.

A government office of assistance for victims of domestic violence trains police how to resolve complaints of violence against women. A directorate within the Ministry of Interior continued a public awareness campaign about domestic violence and operated community assistance centers where abuse victims receive information and referrals to government and private organizations in their area that aid abused

women. Both the Ministry of Interior and NGO's operate shelters in which abused women and their families can seek temporary refuge.

The law prohibits sexual harassment in the workplace; however, few complaints ever are filed under this provision because it is not perceived as a problem.

Women enjoy equality under the law in the workplace but face discrimination stemming from traditional attitudes and practices. However, there never have been any cases brought under the law. The work force exhibits segregation by gender. Women, who make up almost one-half the work force, tend to be concentrated in lower paying jobs. Women's salaries average two-thirds those of men, a figure that reflects gradual improvement in recent years with respect to pay equity. In 2000 about 60 percent of the students at the public university were women. Women often pursue professional careers but are underrepresented in traditionally male-dominated professions.

A national commission for workplace equality includes representatives from the Ministry of Labor, the Ministry of Education and Culture, chambers of commerce, and the umbrella labor organization.

The Air Force commissioned four female officers in December 2000, a first for the military; they are conducting air combat training. In December the first four female cadets graduated from the army's military academy.

A small institute in the Ministry of Education coordinates government programs for women. There are a number of active women's rights groups, and many of their activities remained centered on followup to the platform of action of the 1995 U.N. Conference on Women.

Children.—The Government generally is committed to protecting children's rights and welfare, and it regards the education and health of children as a top priority. An institute in the Ministry of Interior oversees implementation of the Government's programs for children but receives only limited funding for programs. The Government provides free, compulsory primary and secondary education, and 95 percent of children complete their primary education. Girls and boys are treated similarly. Free education is available through the undergraduate level at the national university.

There is no societal pattern of abuse of children. Minors under the age of 18 are not subject to criminal trial but receive special treatment with special judges and, when sentenced, stay in institutions run by INAME for the period determined by the judge; these institutions emphasize the rehabilitation of minors. INAME maintains an extensive network of programs, including shelters for at-risk children. INAME also operates a confidential hot line for children who are victims of domestic abuse.

An estimated 40 percent of children under the age of 5 live in the poorest 20 percent of homes. While health care is free to all citizens, the Government with the help of UNICEF has undertaken a program to educate parents regarding the need for regular checkups and immunization.

In May the authorities discovered a group of children trafficked to the country for labor (See Section 6.f.).

Persons with Disabilities.—A national disabilities commission oversees implementation of a law on the rights of persons with disabilities. Although the law mandates accessibility for persons with disabilities only to new buildings or public services, the Government provides access to a number of existing buildings. The law reserves 4 percent of public sector jobs for persons with disabilities. There is no governmental discrimination against disabled persons in employment, education, or in the provision of other state services. The country has a generally excellent mental health system and an interest in the rights of persons with mental disabilities.

National/Racial/Ethnic Minorities.—The country's Afro-Uruguayan minority, estimated at 5.9 percent of the population, continues to face societal discrimination. A government study conducted in 1996–97 found that the unemployment rate for blacks was 1.5 times the rate for whites. The National Institute of Statistics found that blacks earn an average of 20 percent less than whites who perform the same job. According to a study published in 1999 by the NGO Mundo Afro, the illiteracy rate among black women is twice the national average, and the percentage of black women who have pursued higher education is one-third the rate in the population at large. According to the same study, one-half of Afro-Uruguayan women work as household domestics. Blacks are practically unrepresented in the bureaucratic and academic sectors.

Religious Minorities.—Isolated neo-Nazi elements have carried out occasional, limited attacks and racist and Anti-Semitic activities since 1997. Law enforcement authorities have responded vigorously to such activities. In September 2000, the police arrested and charged with inciting racial hatred the leader of small neo-Nazi group

believed responsible for pro-Nazi propagandizing; he was convicted and sentenced to jail.

Section 6. Worker Rights

a. The Right of Association.—The Constitution states that laws should promote the organization of trade unions and the creation of arbitration bodies; however, there is almost no legislation concerning union activities. Unions traditionally organize and operate free of government regulation. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. Unionization is high in the public sector (over 80 percent) and low in the private sector (under 5 percent). Labor unions are independent of political party control but traditionally have associated more closely with the Broad Front, the leftist political coalition.

The Constitution provides workers with the right to strike. The Government may legally compel workers to work during a strike if they perform an essential service which, if interrupted, “could cause a grave prejudice or risk, provoking suffering to part or all of the society.” On July 25, the umbrella labor confederation—the Workers’ Inter-Union Plenary/National Workers’ Confederation (PIT/CNT)—organized a 1-day general strike. There were other smaller strikes during the year but fewer of these than in 2000.

There are mechanisms for resolving workers’ complaints against employers, but unions complained that these mechanisms sometimes were applied arbitrarily. The law generally prohibits discriminatory acts by employers, including arbitrary dismissals for union activity. Unions maintain that organizers are dismissed for fabricated reasons, thus allowing employers to avoid penalty under the law.

There are no restrictions on the right of unions to form confederations or to affiliate with international trade union groups; however, the one national confederation has chosen not to affiliate officially with any of the world federations. Some individual unions are affiliated with international trade secretariats.

b. The Right to Organize and Bargain Collectively.—Collective bargaining between companies and their unions determines a number of private sector salaries. The executive branch, acting independently, determines public sector salaries. There are no laws prohibiting antiunion discrimination, but a 1993 executive decree established fines for employers engaging in antiunion activities. The law does not require employers to reinstate workers fired for union activities. However, in cases of legal challenges by union activists, courts tend to impose indemnization levels that are higher than those normally paid to dismissed workers.

At the International Labor Organization’s (ILO) Governing Body meeting in March, the Association of Workers and Employees brought allegations against the Government concerning antiunion measures, such as collective bargaining and disciplinary measures against trade union officials and workers. At the ILO’s governing meeting in June, the Association of Bank Employees of Uruguay brought allegations against the government concerning antiunion dismissals, threats of dismissal, and irregular denouncement of a collective agreement. Both complaints remained pending at year’s end.

The Ministry of Labor has a labor commission that investigates antiunion discrimination claims filed by union members. In 2000 there were 5 antiunion discrimination claims, compared with 16 claims in 1999; all 5 cases were resolved and workers were rehired with full rights. Most complaints are resolved within a few months. Labor unions have complained that some businesses have encouraged formation of worker cooperatives, which serve to reduce their labor costs. Although such cooperatives do not necessarily affect workers’ social insurance and other public benefits, this outsourcing can reduce workers’ job security, result in a loss of seniority, and weaken the power of trade unions and of collective bargaining.

All labor legislation fully covers workers employed in the eight special export zones. There are no unions in these zones, but the few workers employed there are not in traditionally organizable occupations.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, and it is not known to occur. The law prohibits forced or bonded labor by children, and the Government generally enforces this prohibition effectively; however, there was one report that children were trafficked into forced labor (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Child Labor Code protects children; the Ministry of Labor and Social Security is responsible for enforcing the law. Some children work as street vendors in the expanding informal sector or in the agrarian sector, which generally are regulated less strictly and where pay is lower. By law minors under the age of 14 may not be granted permission to work, and this is generally enforced in practice. Minors between the ages of 14 and 15 are granted permission to work only in extremely rare cir-

cumstances and even then usually only to work with other members of their families. Minors between the ages of 15 and 18 require government permission to work, and such permission is not granted for dangerous, fatiguing, or night work.

Permission to work is only granted to minors who have completed 9 years of compulsory education or who remain enrolled in school and are working toward completing the period of compulsory education. Controls over salaries and hours for children are more strict than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income. A program by INAME and an NGO to pay families \$83 (1,000 pesos) per month to parents who take their children off the streets and send them to school continued during the year. This amount approximates what a child might earn working on the street. In 1999 the Government created a National Committee for the Eradication of Child Labor, which continues to work on creating a national action plan to combat child labor.

In August the Government ratified ILO Convention 182 on the worst forms of child labor. Most elements of the Convention already were codified in labor law, which INAME and other government agencies enforce.

The law prohibits forced or bonded labor by children, and the Government generally enforces this prohibition effectively (see Section 6.c.). However, in May the authorities discovered a small child-labor ring (see Section 6.f).

e. Acceptable Conditions of Work.—The Ministry of Labor effectively enforces a legislated minimum monthly wage which is in effect in both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages. The minimum wage, which was set in January at about \$80 (1,092 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it would not provide a decent standard of living for a worker and family. The vast majority of workers earn more than the minimum wage.

The standard workweek is 48 hours in industry and 44 hours in commerce, with a 36-hour break each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours and that workers are entitled to 20 days of paid vacation after a year of employment.

The law protects foreign workers and does not discriminate against them. However, in order to receive official protection, the companies that employ foreign workers must report them as employees. Many workers—both native and foreign—work off the books and thus forfeit certain legal protections.

The Ministry of Labor and Social Security enforces legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions.

f. Trafficking in Persons.—There are no laws specifically addressing trafficking in persons; however, there were some infrequent cases involving trafficking.

In May the authorities discovered a small child-labor ring. Traffickers had promised a better life to seven Ecuadorian youths and one young adult, as well as one Colombian; however, once in the country they were forced to work in inadequate conditions, including working 80 hours a week, carrying heavy packages, and receiving inadequate food. In addition, the youth were denied proper medical care, and one girl had to have her finger amputated. The ringleaders were tried, convicted, and imprisoned on charges of violating the child protection and labor laws. INAME placed the youth in temporary shelters and repatriated them to Ecuador in coordination with the Ecuadorian Consulate.

There are no reliable estimates on the number of Uruguayan women who work as prostitutes abroad generally in Europe and Australia or the proportion of them who were induced into such work by fraud or are subjected to conditions approaching servitude.

The country is also used infrequently as a transit country by traffickers; however, there were no reports of such activity during the year.

In 1999 government authorities discovered three Somalis working in peonage on a farm near the capital, presumably earning the cost of their onward trip to Central America.

The Ministry of the Interior has primary responsibility for investigating trafficking cases.

VENEZUELA

Venezuela is a democratic republic with a freely elected president and unicameral legislature. In addition to the executive, legislative, and judicial branches of government, the 1999 Constitution provides for a "Citizen Power" branch of government—which includes the Ombudsman, the Public Prosecutor, and the Controller General—and an "Electoral Power" branch, the National Electoral Council (CNE). In July 2000, following a long and controversial process, voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair national and local elections. The MVR also won 92 seats in the 165-member legislature. In December 2000, the National Assembly appointed members of the Citizen Power and judiciary in a manner that many observers criticized as unconstitutional. The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources, including the executive branch.

The security apparatus includes civilian and military elements, both accountable to elected authorities. The Interior and Justice Ministry controls the Technical Judicial Police (PTJ), which conducts most criminal investigations, and the State Security Police (DISIP), which is primarily responsible for investigating cases of corruption, subversion, and arms trafficking. The Defense Ministry controls the General Directorate for Military Intelligence (DIM), which is responsible for collecting intelligence related to national security and sovereignty. The National Guard, an active branch of the military, has arrest powers and is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. It also supplies the top leadership for various state and municipal police forces, which fall under the authority of the respective state governors or municipal mayors. The Metropolitan Police is the main civilian police force in and around Caracas. In February President Chavez appointed the country's first-ever civilian Defense Minister, Jose Vicente Rangel. There continued to be concern during the year regarding the use of the armed forces in traditionally nonmilitary roles in government and society, including the appointment of active and retired military officers to high-ranking government positions. Three of the 14 members of the President's Cabinet are either active or retired career military officers, as are the presidents of the major state-owned corporations Petroleos de Venezuela, Corporacion Venezolana de Guyana, and CITGO. There are also a number of military officers in high- and mid-ranking positions in government agencies responsible for social development, public works, and finance. The military is involved heavily with public service projects. While civilian authorities generally maintain effective control over security forces, some members of the police and military committed serious human rights abuses.

The country has a population of approximately 24.5 million. There are abundant natural resources, and per capita gross domestic product (GDP) was \$4,980. However, income is distributed unevenly, with approximately 80 percent of the population living at or below the 2000 poverty line of \$1,986 per capita. Oil accounted for 30 percent of GDP, 50 percent of government revenues, and 75 percent of exports in 2000. Natural resources dominate nonoil exports, with some basic refining. Iron, aluminum, steel, and petrochemical products together comprise nearly half of the nonoil exports. The vast majority of all natural resource extraction and production is done by entities owned and operated wholly or in part by the Government. Following an economic contraction in 1999, the economy recovered in 2000 with growth of 3.2 percent, influenced by a strong recovery in global oil prices. GDP grew 2.7 percent during the year.

There were improvements in some human rights areas during the year; however, the Government's human rights record remained poor or worsened in other areas where there traditionally have been serious problems. In addition, problems arose in human rights areas that traditionally have not been of concern. The police and military committed extrajudicial killings of criminal suspects at an increased rate. The majority of these killings were attributed to state and local police forces that have little training or supervision. Police also were accused of having links to a vigilante "death squad" responsible for dozens of killings in one state. Excessive use of deadly force by police and security forces continued to be a serious problem. The pace of investigations into the forced disappearances of criminal suspects by the security forces remained extremely slow. Torture and abuse of detainees persisted, and the Government failed to punish police and security officers guilty of abuses. Severe overcrowding in prisons continued to decrease; however, general prison conditions remained harsh due to underfunding, poorly trained and corrupt staff, and

violence and overcrowding in some prisons so severe as to constitute inhuman and degrading treatment. Arbitrary arrests and detentions decreased. Lengthy pretrial detention and corruption and severe inefficiency in the judicial and law enforcement systems also were problems.

The Government continued to struggle to implement the 1999 Organic Criminal Procedures Code (COPP), which requires a shift from a secretive inquisitorial system to an open adversarial system, and in November the National Assembly approved reforms to the COPP. However, the law's implementation continued to result in human rights improvements, including an ongoing reduction in the number of prisoners not convicted of a crime. The authorities continued to replace judges for incompetence or corruption, and overall judicial reform proceeded. However, the slow pace at which judges were replaced via competitive examinations meant that as of August, 90 percent of judges in the country were temporary. The 1999 Constitution established civilian trials for soldiers accused of human rights abuses, and this provision passed its first major test with the Siccat case, involving an officer convicted of murdering a fellow soldier. Security forces continued to commit illegal searches.

Concern over freedom of expression increased significantly, due in part to a June Supreme Court ruling that could limit press freedom and an October 2000 decree from the Ministry of Education that could allow state interference in private schools. Some critics charged that the Government intimidated the media, and self-censorship reportedly was widespread. Concern over freedom of association remained high and increased among human rights organizations, due to a November 2000 Supreme Court ruling that could limit the legal rights of some associations. The Government ignored some refugees or described them as "displaced persons in transit," restricting their ability to request asylum. However, in August the National Assembly approved a law on refuge and asylum designed to broaden refugees' rights and improve their treatment. Human rights organizations continued to object to the way the national Human Rights Ombudsman was chosen and complained that the office has acted on few cases brought before it. Violence and discrimination against women, abuse of children, discrimination against persons with disabilities, and inadequate protection of the rights of indigenous people remained problems. Although concern over labor rights remained, the atmosphere for independent labor unions improved significantly. Child labor persisted. There were reports that the country was a source, destination, and transit country for trafficked persons, although the Government took steps to reduce corruption among immigration authorities. Killings due to vigilante actions increased.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of targeted political killings; however, the security forces continued to commit extrajudicial killings, primarily of criminal suspects, at increased levels. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a respected human rights nongovernmental organization (NGO), documented 241 extrajudicial killings from October 2000 through September, compared with 170 killings from October 1999 to September 2000. The killings included summary executions of criminal suspects and deaths resulting from mistreatment while in custody. The indiscriminate or excessive use of force also was documented. PROVEA attributes the following responsibility for extrajudicial killings: state police forces other than the Metropolitan Police (189); the Metropolitan Police (2); the PTJ (12); the National Guard (8); municipal police forces (20); the army (2); the DISIP (2); other security forces (2); and two or more security forces (4). These figures reflect a range of killings in different situations committed by organizations with varying levels of control and responsibilities. Police continued to fire on criminal suspects who disobey orders to halt.

The perpetrators of extrajudicial killings act with near impunity, since the Government rarely prosecutes such cases. The police often fail to investigate crimes allegedly committed by their colleagues and characterize incidents of extrajudicial killings as "confrontations," even when eyewitness testimony and evidence strongly indicate otherwise. In addition, the civilian judicial system still is struggling to implement the 1999 COPP and, in the meantime, remains highly inefficient and sometimes corrupt (see Section 1.e.). In the small number of cases in which the courts convict perpetrators of extrajudicial killings and other abuses, the sentences issued frequently are light, or the convictions are overturned on appeal. Unlike common criminals, members of the security forces charged with or convicted of crimes rarely spend much time in prison.

Federal and state police are investigating the so-called "Grupo Exterminio," a vigilante "death squad" with apparent police ties that is accused of up to 100 killings between mid-2000 and September 2001 in the cities of Acarigua and Araure, Portuguesa state. After investigation began in May, two witnesses also were killed, and judges and public prosecutors received death threats. A total of 42 state police officers are suspected of having ties to the Grupo Exterminio, and the authorities have arrested 18 officers. In late December, the press reported another extermination group emerging in Portuguesa. Investigators believe that the group is made up of active and former police as well as private "hit men." An anonymous member of the group gave a newspaper interview on June 4 in which he acknowledged the group's existence and described it as being made up of "decent citizens doing what they have to do" to fight rising crime. He claimed that the group has targeted only "criminals with lengthy records" and claimed that it is responsible for only half the killings attributed to it. In May the group published a pamphlet that blamed the COPP for the rise in crime that led it to act and claimed that the group will not stop until the COPP is repealed. The National Guard took over police duties in Portuguesa state pending the outcome of investigations of the extermination group.

On January 10, army Lieutenant Alessandro Siccato sprayed and ignited paint thinner in the holding cell of three allegedly disobedient soldiers. Two men were burned seriously; a third, Jesus Alberto Febres, died as a result of burns 20 days later. A military court convicted Siccato; however, in a test of the constitutional provision that trials for military personnel charged with human rights abuses would be held in civilian courts, the Attorney General appealed, and in October the Supreme Court granted a civilian court jurisdiction (see Section 1.e.).

The majority of extrajudicial killings by security forces were attributed to state and municipal police forces that report to local officials and often have little training or supervision. For example, on January 7, the Trujillo state police bound, shot, and killed 17-year-old Luis Fernando Briceno, according to the human rights NGO Red de Apoyo. Briceno was walking home from a friend's residence in Valera City when a police patrol stopped him. According to witnesses, police tied Briceno's hands with a cloth and walked him to a side street, where several shots were heard. There was no known investigation.

Red de Apoyo reported that on February 2, in Casigua el Cubo, Zulia state, security forces killed 44-year-old Angel Ardilla when they fired at his vehicle without provocation. Ardilla was seated in his truck with Alba Marina Bustamante, who was injured in the incident, when an army troop patrol approached the vehicle, which stood stationary with its engine off. Without warning, the patrol opened fire. Army members later attempted to force Bustamante to declare that Ardilla had tried to kidnap and rape her. There was no investigation.

On May 31, Caracas Metropolitan Police shot and killed 16-year-old Ericson Jose Parra in the Petare neighborhood. Parra was leaving the home of an acquaintance when a plainclothes policeman stopped him and shot him in the leg without justification. Parra ran to the home of a friend, where two police entered and forced the family residing there to leave. Police then took Parra away in a patrol car and later informed his family that he was dead. There was no investigation.

On June 22, in San Antonio, Tachira state, members of the PTJ shot and killed 19-year-old Juan Pablo Arroyave. Arroyave and three relatives were driving home when PTJ officials stopped their car and violently forced them to get out. When the car began to roll away, the police told Arroyave to engage its hand brake. When Arroyave reached for the brake, police shot him. There was no investigation.

There were no new developments in the official investigation into the June 2000 killings by the Caracas Metropolitan Police of Ronny Tovar, age 17, Francisco Mister, age 14, and Luis Hernandez, age 21. Police arrested the three in their homes, and witnesses heard shots and saw their bodies being taken from the scene in a police vehicle. The bodies were recovered later.

An official investigation concluded during the year in the April 2000 shooting of Guillermina Colmenares by the Metropolitan Police; however, as of September, no charges had been filed. Colmenares was killed when police fired at a group of persons who had just seen them shoot and kill a suspected criminal. The police tortured witness Donis Ramirez and, in late December, threatened another witness, according to the human rights group Support Network (see Section 1.c.).

There were no developments in the investigation into the January 2000 detention by Yaracuy state police of Jaime Hilarion and Richard Lucambio on a street in San Felipe city. Hilarion's and Lucambio's bodies were found 5 days later on a river bed and a highway, respectively.

An official investigation continued slowly during the year into the June 1999 death of Jhon Linares, who was detained by the Metropolitan Police and later was found dead at the hospital as a result of bullet wounds. There were no prosecutions,

and none appear likely, in the February 1999 death of Oswaldo Blanco due to abuse by the National Guard.

There were no new developments, and none appear likely, in the on-going trial of a Sucre state police officer for the February 1999 death of Angel Castillo Munoz. Castillo died when state police broke up a peaceful student demonstration; he was hit in the head by a rubber bullet and fell unconscious into an area saturated by tear gas. Police reportedly continued to fire on the demonstrators, despite students' attempts to surrender, thus delaying medical care to injured students.

There were also no developments, and none appear likely, in the appeal by the prosecution of a 1999 court decision to exonerate a PTJ member implicated in the 1995 execution-style killing of 21-year-old Hector Rojas, despite evidence of the officer's guilt.

PROVEA reported a pattern of extrajudicial killings in the states of Barinas (32 such deaths between January 2000 and June 2001) and Zulia (where 43 persons died in "clashes" with police in the first 4 months of the year). On October 15, Human Rights Ombudsman German Mundarain called for "urgent intervention" by the federal government into the operations of state-level police in six states, in response to what he termed increasing numbers of extrajudicial killings that may have police connections. He expressed concern regarding reports of killings and forced disappearances in Portuguesa, Bolivar, Aragua, Yaracuy, Anzoategui, and Miranda states. According to the Public Ministry, there have been 239 cases of killings or forced disappearances in 18 of the country's 23 states since the beginning of 2000.

Security forces also killed some prisoners; however, the majority of the inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

The authorities continued slowly to investigate allegations of human rights violations by the military and security forces sent to Vargas state in December 1999. The forces were sent to restore order after an outbreak of looting following flooding and landslides that killed an estimated 20,000 persons. Witnesses claim that military and security forces beat, detained, and killed alleged criminal suspects and other individuals between December 19 and December 25 (see Sections 1.b., 1.d., and 4). Four disappearance cases from the same period in Vargas also are being investigated slowly (see Section 1.b.).

In June the NGO Committee of Family Members of Victims of the Unrest (COFAVIC) called for the removal of the Government's representative in the cases relating to the civil unrest of February-March 1989, in which security forces allegedly committed some 300 extrajudicial killings. The COFAVIC had referred a total of 45 cases to the Inter-American Commission on Human Rights (IACHR) in 1995. In November 1999, before the IACHR, the Government accepted responsibility in 44 killings. The Government also agreed to compensate the families of the victims and to punish those responsible; however, there remained considerable disagreement regarding compensation. During the year, human rights activists criticized the Government for moving slowly and questioned whether it was negotiating in good faith. In 1991 a police officer was found guilty of one killing, but the courts released the officer from prison 1 year later. In 1997 the IACHR called on the Government to investigate this case, provide compensation to the victim's family, and bring to justice those responsible for the death. The Government investigated and made a payment in 2000, but at year's end, it still had not punished any of those responsible.

Mob lynchings of supposed criminals increased due to the public's frustration with rising crime. The victims were almost always known criminals who preyed on residents of poor neighborhoods. Between October 2000 and September, PROVEA recorded 63 lynchings and 102 attempted lynchings, compared to 22 lynchings and 107 attempted lynchings between October 1999 and September 2000. Unlike the previous year, there were no reports during the year of lynchings by vigilante groups known as "brigadas."

b. Disappearance.—The 1999 Constitution prohibits forced disappearance, and there were no reports of politically motivated disappearances during the year. The Constitution also states that an individual must refuse to obey an order to commit such a crime, and provides for the prosecution of the intellectual author of the crime.

Government agents are suspected in the forced disappearances of alleged criminal suspects and other individuals in Vargas state during a crackdown on looters following flooding in December 1999. On September 14, the Attorney General announced that formal charges had been filed against two DISIP agents in a Vargas court. DISIP Commissioner Jose Yanez Casimiro and since-retired Commissioner General Justiniano Nartinez Carreno face charges in the December 1999 disappearances of Oscar Blanco Romero and Marco Monasterio, who were arrested separately by army paratroopers without explanation in their homes in Caraballeda, Vargas

state. The army has stated that it immediately turned the two men over to the DISIP. The DISIP first claimed that it had no agents in the area at the time, and then reversed itself but stated that it did not have Blanco and Monasterio in detention. Casimiro is accused of being responsible for the disappearances and Carreno is accused of covering them up; neither man had been arrested by year's end.

Also on December 21, 1999, army paratroopers beat and arrested Jose Rivas Fernandez on a street in Caraballeda. The army stated that it did not detain Rivas. On December 23, 1999, DISIP agents seized Roberto Hernandez Paz in La Guaira, Vargas state. Hernandez's uncle heard him plead to the agents and heard a gunshot in the family's garden. Neighbors witnessed the injured victim being placed in a DISIP vehicle and driven away. The DISIP stated that it did not arrest Hernandez. Neither of these missing individuals has been located.

The Government's investigation of these cases has been extremely slow and disorganized. Charges have been filed in only one case, and the Government has been unable to compel the cooperation of the DISIP. The investigating team was changed three times in 2000, with each new team starting an inquiry afresh. During the year, human rights groups continued to ask that obstruction of justice charges be brought against the DISIP to force it to cooperate. In July the Supreme Court granted a habeas corpus writ filed on behalf of Hernandez and ordered the prosecutor to renew investigations into his disappearance.

There are reports that Colombian guerrillas kidnap persons for extortion. According to the National Federation of Cattlemen, at year's end, Colombian guerrillas still held 18 of the 24 landowners whom they kidnaped in 1999.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and the holding of detainees incommunicado, provides for the prosecution of officials who instigate or tolerate torture, and grants victims the right to medical rehabilitation. Under the 1999 COPP, detainees have the right to a judicial determination of the legality of their detention within 3 days—a reduction from the previous 8-day period that human rights groups argued was the principal time during which detainees were tortured (see Section 1.d.). However, security forces continued to torture and abuse detainees physically and psychologically. This abuse most commonly consisted of beatings during arrest or interrogation, but there also were incidents in which the security forces used near-suffocation and other forms of torture that left no telltale signs. Most victims came from the poorest and least influential parts of society.

PROVEA documented 340 cases of torture, beatings, and other abuse from October 2000 through September (affecting 577 victims), compared with 429 cases from October 1999 through September 2000 (affecting 527 victims). PROVEA attributes responsibility for the reported incidents as follows: state police forces, 277; the armed forces, including the National Guard, 115; Caracas Metropolitan Police, 50; other municipal police forces, 98; the Technical Juridical Police, 26; and the DISIP intelligence service, 11. In 1999 human rights NGOs presented a report to the U.N. Committee Against Torture in which they documented 120 torture cases since 1987 that they have reported to the Government but that still have not been investigated fully; there is no indication of Government follow-up to this report.

Torture, like extrajudicial killings, continues because the Government does not ensure independent investigation of complaints, a needed step to bring those responsible to justice. In addition to the judiciary's lack of vigor, the Institute of Forensic Medicine is part of the PTJ. This contributes to a climate of impunity, since its doctors are unlikely to be impartial in their examinations of cases that involve torture by members of the PTJ. Very few cases of torture have resulted in convictions.

Cases of torture occur under a variety of circumstances. For example, on February 17, Carabobo state police beat and extorted money from 22-year-old Elio Centeno and three friends, according to Red de Apoyo. The group was seated in a parked car when police demanded to see their identification documents and obliged them to board a patrol car. When the group asked why they were being detained, police beat them, took them to a police station, and demanded \$7 (5,000 bolivars) each for their release. When Centeno and his friends refused to pay, police beat them again. The four were released the next day after each paid \$11 (8,000 bolivars) to the police. There was no known investigation.

On May 18, National Guard members in San Cristobal, Tachira state, beat William Ferrer and Arturo Teran. The two were seated in a liquor store when a National Guard patrol stopped and demanded their identification. Before Ferrer could stand up to provide his identification card, a Guard member beat him. When Teran protested Ferrer's treatment, another Guard member dragged him out of the store by the neck and beat him as well. There was no known investigation.

An official investigation in the case of Donis Ramirez, who was tortured in April 2000 by the Caracas Metropolitan Police and threatened with death if she spoke to

other authorities, concluded during the year; however, no charges were filed by year's end. Ramirez had seen the police fire at a group of individuals who had just witnessed them shoot and kill a suspected criminal. Another witness, Guillermina Colmenares, was killed in the incident (see Section 1.a.). In late December, the police reportedly threatened a third witness.

An official investigation continued during the year into the case of Jose Matheus, who was arrested in his home in March 2000, by Zulia state police and accused by police of involvement in a kidnaping. The police held Matheus incommunicado for 11 days, beat him severely, and tortured him psychologically.

There were no new developments, and none appear likely, in the August 1999 case of torture of Juan de la Cruz Bravo by the PTJ in Guasdalito, Apure state, or in the June 1999 beating of Andres Flores by the Metropolitan Police.

An official investigation concluded, and charges against members of the military were dismissed during the year for lack of evidence, in the 1995 case in Cararabo, Apure state, in which the military killed or tortured 23 rural workers in response to an attack by Colombian guerrillas. Three members of the military spent 5 years in jail or under house arrest until they were released at the conclusion of the investigation. There were no new developments in the 1995 case in La Victoria, Apure state, in which 19 peasant farmers were tortured or killed by military members reacting to a guerrilla attack.

According to indigenous activists in Amazonas state, on April 17, a member of the Bare indigenous people was left paralyzed when a member of the National Guard shot him without provocation. Julian Rivas was traveling by boat along the Orinoco River with his brother Juan when he was shot repeatedly in the back. The National Guard later claimed that the shooting was accidental. There was no known investigation.

In October two landowners and several squatters were badly injured, and a teenage boy was left in a coma as police and the National Guard tried to evict invaders from a private property in Machiques, Zulia.

Metropolitan Police used tear gas against protesters at the National Assembly on November 22 and against marchers on December 7 (see Section 2.b.). There were no reports of excessive use of force in these incidents.

General prison conditions continued to be harsh due to underfunding, poorly trained and corrupt prison staff, and violence by guards and inmates. Due to the implementation of the COPP, the prison population decreased to 84 percent of capacity in 2000, the last year for which statistics are available. Conditions in some prisons became more humane and manageable during the year as overcrowding lessened; however, overcrowding in other prisons was so severe as to constitute inhuman and degrading treatment. Because of the uneven distribution of inmates, approximately 40 percent of prisoners remain housed in seriously overcrowded facilities. In November the National Assembly reformed the COPP, and human rights groups are concerned that the reforms could lead to an increase in detentions (see Sections 1.d. and 1.e.).

The Government failed to provide adequate prison security. According to PROVEA, there were 110 deaths and 698 injuries from violence in jails from October 2000 through September—a decrease from a total of 338 deaths and 1,255 injuries from violence between October 1999 and September 2000. Security forces committed a small number of the killings in prisons, and many prisoners died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. However, most inmate deaths resulted from prisoner-on-prisoner violence (especially during fights between rival gangs), riots, fires, and from generally unsafe conditions.

For example, on May 1, rival gangs clashed in the Tocuyito Prison in Carabobo state. The confrontation involved firearms and grenades that had been smuggled into the prison with the help of corrupt prison authorities. Six prisoners were killed and eight were wounded in the violence, which lasted several hours before authorities managed to control the situation.

On May 9, at the Yare jail in Caracas, two heavily armed rival gangs fought for over 12 hours before authorities could control the violence. Nine inmates were killed and 30 were wounded. One gang member was decapitated, several were mutilated, and one committed suicide when he found himself surrounded by rival gang members during the fighting.

On April 15, prisoners belonging to a gang in the Tocuyito Prison took hostage relatives of members of a rival gang who were present in the prison during visiting hours. Before releasing the family members, the inmates held them for more than a day to leverage their demands that prison authorities not undertake their planned transfer to another facility.

In March a gun battle between rival gangs in the El Rodeo Prison in Miranda state left 2 prisoners dead and 41 wounded. At Yare I Prison in Miranda, at least

20 inmates died in separate incidents from April to August, as gangs competed to control the market in drugs and weapons.

Inmates often have to pay guards as well as each other to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, only about 30 percent of inmates consume it. Most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profit from exploiting and abusing others. This problem is exacerbated by the absence of a rational system of prisoner classification: convicted murders and rapists are housed with unsentenced first-time petty offenders. Gang-related violence and extortion is fueled by the substantial trafficking in arms and drugs that occurs in prisons.

Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings (see Section 1.e.).

Female inmates are held in separate prisons, where conditions generally are better than those in the men's facilities. Security forces and law enforcement authorities often imprison minors together with adults, even though separate facilities exist for juveniles. Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in juvenile detention centers where they are crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

In August 2000, the Government ended the prison emergency that it had declared in September 1999, and disbanded the Interinstitutional Commission that had managed it. Funding for prisons remained extremely low during the year, preventing significant improvement in most penitentiaries. The Government publicly discussed the privatization of some prisons on several occasions, but took no concrete action. Despite resistance from the Catholic Church and NGO's, the Government sporadically used the National Guard, normally charged with exterior prison security, to maintain internal control of prisons.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution and the 1999 COPP provide for freedom from arbitrary arrest and detention; however, the security forces continued to arrest and detain citizens arbitrarily at a decreased rate.

There continued to be arbitrary detentions by the Caracas Metropolitan Police, the DISIP, municipal police forces, the National Guard, and the PTJ, especially during anticrime sweeps in impoverished sections of major cities. PROVEA documented 4,243 persons detained in sweeps from October 2000 through September, a decrease from the 8,981 persons detained in sweeps from October 1999 through September 2000.

In the Colombian border area where some constitutional protections had been suspended since 1994, the National Guard and army acted with near impunity until the suspension of the protections was lifted in 1999. Thereafter complaints against the security forces in this area decreased significantly. However, human rights activists in border areas allege that security forces there continue arbitrarily to detain individuals and groups, sometimes in the middle of the night, citing the need to examine identity documents.

There were no new developments in the case reported by Amnesty International in 2000 that police in Valencia, Carabobo state detained four transgendered persons and held them incommunicado for 2 days without food or drinking water in September 2000 (see Section 5). The family of one of the detainees filed a formal complaint with the Public Ministry.

The COPP states that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person is caught in the act of committing a crime, or a judge determines that there is a danger that the accused may flee or impede the investigation. Under the previous system, the police could hold persons without an arrest warrant for up to 8 days, and in many cases, the police abused detainees physically and psychologically during that period and illegally held them incommunicado (see Section 1.c.). The law provides for the right to a judicial determination of the legality of the detention within 72 hours. Persons accused of crimes must be brought before a judge within 24 hours of arrest or be freed pending charges. In no case may the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor may it exceed 2 years. However, confusion over the COPP still exists, and arbitrary arrests continue to be common. In addition, the National Assembly approved reforms to COPP, including broadening the definition of the "in flagrante" circumstances in which a criminal may be apprehended and lengthening slightly the time provided to police to present charges prior to the release of an arrested individual (see Section 1.e.). Human rights groups are concerned that the reforms could lead to an increase in detentions.

Before the COPP came into effect in 1999, roughly 70 percent of prisoners had not been convicted of a crime because, under the previous procedural code, most criminal defendants were incarcerated rather than granted provisional liberty while their prosecutions were pending. In addition, the slow, secretive, and inquisitorial procedures under the previous code resulted in an inefficient, overburdened, and corrupt judicial system that left cases languishing an average of 4 to 5 years in the courts, during which time the accused usually remained in jail. Under the COPP, prisoners accused of petty crimes who have not been convicted but already have served 2 years or the minimum sentence possible for that crime (whichever is less) are to be released if they pass a psychiatric examination. Under the provisions and benefits provided by the law, approximately 9,000 prisoners were released in 2000, the last year for which this statistic was available. There were approximately 14,200 prisoners at the end of 2000, 45 percent of whom had not been convicted of a crime. This was a decrease from 57 percent in 1999.

Forced exile is illegal and is not practiced.

e. Denial of Fair Public Trial.—The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources, including the executive branch.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Public Prosecutor, who provides opinions to the courts on prosecution of criminal cases and brings to the attention of the proper authorities cases of public employee misconduct and violations of the constitutional rights of prisoners or accused persons; the Ministry of Interior and Justice, which manages the national police force, files complaints in criminal courts, and oversees the prisons; and the Executive Directorate of the Magistrature (DEM), which oversees the lower courts as well as the selection and training of judges. The lower court system includes district and municipal courts as well as trial and appeal courts that deal with civil and criminal matters.

Both the 1999 COPP and the previous legal code provide for the right to a fair trial and consider the accused innocent until proven guilty in a court. However, under the previous secretive inquisitorial code, the presumption of innocence generally was not respected nor accepted. The system was corrupt, paper-intensive, costly, and time-consuming. Judges are underpaid, poorly disciplined, and susceptible to political influence. The COPP introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. The adversarial system also establishes the right to plead guilty and make reparation agreements, a statute designed to clear the overburdened judicial system of simple cases and minor offenses. However, lengthy delays in trials remained common.

The Government continued to struggle to implement the COPP, which altered the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, judge, and lawyers. The police no longer may detain persons arbitrarily for up to 8 days (see Section 1.d.) and now must work under the supervision of a prosecutor; judges have ceased to be investigators and are now arbiters of law; and prosecutors and defense attorneys confront one another in court. Despite a shortage of trained personnel and resources, open, oral trials took place around the country for the third consecutive year.

Frustration among law enforcement entities over the difficulty of adapting to the COPP and public perceptions that the COPP's higher evidentiary standards and greater rights for the accused are responsible for rising crime levels led the National Assembly to form a mixed committee of jurists to propose reforms to the law. In November the National Assembly approved a series of reforms, including: strengthening out-of-court settlements and increasing victims' rights to compensation; providing physical protection to crime victims during trials; bolstering the work of juries for some crimes and eliminating them for others; eliminating some sentence reduction benefits for jailed criminals; and expanding powers of detention (see Section 1.d.). The reforms were in effect at year's end.

The law provides for public defenders for those unable to afford an attorney; however, there are not enough public defenders to handle the caseload. According to statistics from the DEM, with the appointment on August 3 of 120 provisional public defenders, there are 395 public defense attorneys for the entire country.

Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings. Those who are unable to pay often are forced to forgo their hearings.

Significant attempts to reform the judicial system continued slowly. During the year, the DEM—which oversees the selection, training, and discipline of judges—suspended and removed judges based on charges of incompetence or corruption. Judges were suspended with pay; however, some observers challenged that the judges' right to appeal was restricted. The Government held competitive examina-

tions to fill judicial vacancies, beginning in Miranda and Vargas states in January. Judges with pending cases against them are not eligible to take the examinations, and judges who have been reprimanded have points deducted from their scores. However, the slow pace at which suspended or fired judges are replaced meant that, as of August, only 183 (or approximately 10 percent) of the 1,772 judges in the country were permanent, while the remaining 1,589 (or approximately 90 percent) were temporary. Some human rights groups alleged that these procedures allowed the executive branch to choose judges that would be loyal to the Chavez Administration.

The military courts continued to implement a reform similar to the COPP in the military justice system. The Constitution established that trials for military personnel charged with human rights abuses would be held in civilian rather than military courts. However, the provision does not apply to cases that predate the 1999 Constitution and there is no implementing law for the provision. In January a soldier died and two were injured after army Lieutenant Alessandro Siccato sprayed and ignited paint thinner in their holding cell (see Section 1.a.). The military proceeded with a case against Siccato within the military court system; however, before the start of the court-martial, the COFAVIC convinced the Attorney General to appeal for a halt to the military proceedings. The Attorney General appealed to the Supreme Court, which determined that the case should have been heard by the Superior Court, and declined to hear the appeal. On September 14, the court martial sentenced Siccato to 16 years and 7 months in jail for manslaughter, assault, and abuse of authority. However, following the verdict, the Attorney General appealed to the Supreme Court to have the military trial annulled and the case sent to civilian courts. On October 24, the Supreme Court ruled that civilian courts should hear the case, citing the precedence of Article 261 and the "ordinary," rather than "military," nature of the crime. The Court declared the court-martial and sentence null and void, and sent the case to a state court in Maracay. Siccato remained in custody at year's end.

Human rights NGO's continued to express concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense links the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated. As a result, military judges trying human rights cases that predate the Constitution can be subject to improper influence, and offenders might evade punishment for human rights abuses. However, human rights groups noted the Ministry of Defense's decision during the year to publish its judge candidate lists and called this a step toward greater transparency in this process.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Constitutional provisions prohibit arbitrary interference with privacy, family, home, and correspondence; however, the security forces continued to infringe on citizens' privacy rights by conducting searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. There were no complaints during the year by human rights NGO's of illegal wiretapping by the security forces.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and while the Government generally respects these rights in practice, many journalists and media critics reported that the Government intimidated the media and that self-censorship was widespread. Individuals and the media freely and publicly criticize the Government; however, concerns over press freedom increased during the year. President Chavez made public threats against individual journalists and media organizations. During the year, government officials singled out media figures by name for verbal attack, criticized a television station's coverage and noted that its broadcasting license could be revoked, and alleged that certain media organizations and owners have evaded taxes.

The Constitution states that all persons have the right to "timely, true, and impartial" information, without censorship. This "true information" article has raised concerns among many in the domestic and international media that it could be used by the Government to censor or intimidate the press. The Constitution also provides for the "right to reply" for individuals who believe they are portrayed inaccurately in media reports. President Chavez has demanded a right to reply on several occasions. However, some individuals named by the President in his weekly national radio show have complained that they have not been granted the right to reply.

The most significant such case was a lawsuit filed in October 2000 by journalist Elias Santana. In two separate radio programs, President Chavez criticized Santana and his NGO activities by name in his programs; Santana sought the right to reply.

On June 12, the Supreme Court denied Santana's request, stating that the media and those who habitually express themselves through the media do not have a right to reply, because "the right to reply and correction has been granted only to those who receive information, not to those who supply it." Santana announced that he would appeal this ruling to the IACHR; the appeal was pending at year's end.

The Supreme Court's ruling also established criteria for determining and exercising the right to "timely, true and impartial information." It declared that it is "contrary to the freedom of information" for a medium to "emit negative or critical concepts about ideas, thoughts, judgments, rulings, etc.," without indicating what is being criticized. The ruling set criteria to establish whether a media report is "true" or not, according to the Constitution. Violations include expressing opinions that contain statements that are "out of context, disconnected, or unnecessary for the topic, or offensive, insidious, or degrading expressions unconnected to the topic, or unnecessary for the forming of public opinion." The ruling affirms that information can be censored prior to publication if it violates Article 57 of the Constitution, which prohibits anonymous authorship, war propaganda, and messages that promote discrimination or religious intolerance. The Court also ruled that it is "restrictive of true and impartial information" if a majority of a medium's writers of editorial articles express the same ideological tendency, unless that medium openly declares itself to be a party to those views. The domestic media and international organizations such as the Inter-American Press Association (IAPA) and the Committee for the Protection of Journalists criticized the Court's ruling.

A separate and earlier judicial case also suggested pressures against freedom of speech. Pablo Aure Sanchez, a professor at the University of Carabobo, sent a letter allegedly insulting the Armed Forces to newspaper editors that was published on January 3. On January 8, Aure was arrested on the orders of a military judge and questioned by military intelligence agents. Then-Foreign Minister Rangel accused Aure of being involved in a conspiracy to incite unrest within the military. Aure was held for 2 days and released. On February 2, the Supreme Court transferred the case to a civilian court. The editor of the *El Carabobeño* newspaper, which published the letter, was called to testify before the National Assembly. The editor of the *El Nacional* newspaper, which also published the letter, refused to testify.

During public remarks on June 9, President Chavez announced that he had given orders that, as of that date, foreigners who criticize the country, the President, or the armed forces would be expelled from country for meddling in domestic politics. The remarks came several days after a Peruvian politician compared President Chavez to former Peruvian President Alberto Fujimori during a public seminar. At year's end, there were no reported cases of foreigners being expelled for such public criticism.

A 1994 law requires practicing journalists to have journalism degrees and be members of the National College of Journalists. These requirements are waived for foreigners and for opinion columnists, on the grounds of tolerance of free speech. Media owners challenged the law in 1995, but there was no definitive court ruling on this matter by year's end.

Print and electronic media are independent. Most newspapers do not regularly publish editorials that reflect the view of the newspaper, but signed articles on opinion pages carry abundant and varied perspectives, often highly critical of the Government. Radio and television stations rarely broadcast overt institutional political opinions, although opinion and talk shows are common. There are state television and radio stations and a national newswire service whose directors are named by the President. The President has a weekly call-in radio show on state-run Radio Nacional. At the President's discretion, his speeches or other public appearances may be declared a "national broadcast." All television and radio stations are required by law to preempt scheduled programming and transmit the national broadcasts in their entirety.

Media analysts, journalists, and other observers allege that the criminal defamation and libel laws are used to intimidate or harass the media. On June 6, the Supreme Court dismissed one long-running suit against *Exceso* magazine, first filed in 1997. A separate criminal defamation suit, against Pablo López Ulacio, editor of weekly newspaper *La Razón*, continued at year's end. *La Razón* published articles in September 1999 alleging possible corruption in certain government contracts and auctions. In June 2000, a court prohibited *La Razón* from publishing information related to the lawsuit. López was placed under house arrest and eventually went into hiding, alleging that he could not receive a fair trial in Venezuela. The International Committee to Protect Journalists protested the case and asked the IACHR for injunctive relief, which was granted on February 8. The case remained pending before Venezuelan courts at year's end. Because of the lengthy process and considerable legal costs, some observers regard these lawsuits, or threats of lawsuits, as ex-

amples of attempts to intimidate journalists and discourage investigative journalism.

The Government has tools to influence the press, such as licensing requirements for journalists, broadcast licensing concessions for television and radio stations, and lucrative public sector advertising. In practice the media environment has been free and open, although some journalists believe that self-censorship is becoming more widespread.

A telecommunications law enacted in June 2000 was criticized by the International Association of Broadcasting and domestic media upon its passage because of provisions relating to broadcast content and frequency concessions. Article 209 of the law establishes that the President, "when he judges it convenient to the interests of the nation, or when required for reasons of public order or security, can suspend telecommunications broadcasts, in conformity with the Constitution." Some observers believe that this article might allow the suspension of media broadcasts for vague and arbitrary reasons. On October 3, President Chavez referred to this law when he criticized television station Globovisión and noted that the Government has the discretionary power to revoke licenses.

There were numerous allegations of inappropriate government pressure against the media. President Chavez repeatedly has singled out media owners and editors by name, sometimes calling them "enemies of the revolution" or "enemies of the people." He has also charged that some media figures are involved in a campaign to provoke political unrest and an "international conspiracy" to discredit or insult his Government. On one such occasion, President Chavez asked his audience if they knew a particular owner and threatened to show a photograph of that person. One newspaper editorialized that this threat was "extremely dangerous: his threat to display [the] photograph constitutes literally an incitement to a physical lynching."

President Chavez also publicly accused media owners and institutions of tax evasion, sometimes citing individual persons or media. For example, on June 9, he identified one media owner by name, called his publication "a newspaper of lies" and threatened "to send his bones to jail" for tax evasion. The President stated, "Those tax evaders are the people guilty of the war against the Government in the media."

On October 3, the President accused television station Globovisión of engaging in a "campaign of lies" against the Government. Chavez characterized this supposed campaign as "premeditated" and "psychological terrorism." He particularly criticized a September 29 broadcast by Globovisión that included an interview with a taxi driver who erroneously stated that nine taxi drivers had been murdered the previous night. Globovisión corrected the report later that same day. President Chavez warned Globovisión's director Alberto Federico Ravell and its owner Nelson Mezerhane that if they did not reconsider their broadcasts, he would "be forced to activate mechanisms in defense of the national interest, truth and public order" and that their actions might have "legal consequences." President Chavez noted that the "airwaves belong to the State," announced that he had ordered the National Telecommunications Commission (Conatel) to investigate the station, and warned that the station's broadcast licenses might be reviewed. Media observers interpreted the statement as a threat against all media, especially broadcast media. Fernando Egaña, former director of the Government's Central Information Office, stated that the criticism against Globovisión was not "isolated nor a specific instance; it forms part of a permanent and systematic campaign of intimidation against the media." On October 18, Conatel announced that it was opening administrative proceedings against Globovisión to determine if the station had violated broadcast content regulations. The case remained pending at year's end. Possible sanctions include punitive action, monetary fines, or the temporary or permanent suspension of Globovisión's license.

There were no reports of government-sponsored attacks on journalists; however, journalists have reported being assaulted physically or verbally for what appear to have been political motives. Individual journalists have reported receiving intimidating or threatening phone calls, and there were instances of bomb threats and small explosive devices planted near newspaper offices. Some observers assert that President Chavez's aggressive rhetoric in criticizing the media has contributed to a climate of intimidation and hostility toward the media that encourages such attacks.

In Guárico state, a lawsuit for defamation against a journalist from the *La Prensa del Llano* newspaper and a court order prohibiting the newspaper from mentioning the state governor in its reports were regarded by some observers as a case of official pressure. There were also allegations of threats against a reporter from *La Antena* newspaper after the publication of an article alleging corruption by the governor.

On May 25, the printing press of La Opinión newspaper in Cojedes state was destroyed by fire in an apparent arson. The newspaper had published many articles critical of the state governor.

International organizations and domestic journalists have charged the Government with encouraging a climate of hostility toward the media that jeopardizes freedom of the press. The IAPA expressed its "concern for the future of freedom of expression in Venezuela" at its October meeting. Its annual report stated that "there is a marked tendency on the part of the Government toward restricting press freedom via threats, and there are open pressures directed against written media, editors and reporters for disagreeing with official policy." The IAPA report said that the Government was "inciting public hatred" against the media and that "a dangerous attitude exists on the part of the State."

In October 2000, the International Press Institute (IPI) first added the country to its "watch list" of countries where there is a growing tendency toward suppressing or restricting press freedom. In October the IPI decided to maintain the country on the watch list. The IPI report stated that "the aggressive rhetoric by President Chavez has contributed to the creation of a climate of intimidation and hostility toward the press and self-censorship is becoming more common." The IPI charged that some government officials at the state and city levels also have tried to intimidate the media.

There is no state censorship of books, films, or other media products. Internet access is completely free and uncontrolled.

While academic freedom traditionally has been respected, the autonomy of the country's universities was threatened during the year. Public institutions of higher education designated as "experimental universities" are governed by Superior Councils, to which the Government may appoint a majority of members. In April the Government attempted to name to the Superior Council of the Simon Bolivar University in Caracas a majority of individuals because of their political allegiance to the Government, rather than because of their academic credentials. The Government successfully replaced the leadership of other universities, mostly in the interior of the country, with political allies. The Central University of Venezuela, whose Rector was chosen in transparent elections in 2000 and who is not aligned politically with the Government, continued to experience violent, pro-Government student unrest. For several days in March and April, the Central University of Venezuela was in a state of siege. On March 28, approximately 400 students, faculty and staff, some claiming to be members of a formerly unknown group called "Utopia and Disobedience," caused violent demonstrations that resulted in some injuries, and the sequestering of Rector Giannetto along with other university officials in the Rectorate. A group of students, reportedly aligned with the Government, occupied university buildings for over a month in an effort to force the Rector to resign. One of the leaders of this group was the son of the Vice President, and there were concerns that the protesters used supplies provided by a government-sponsored foundation. Other university students ultimately removed the occupiers. Two weeks after their removal, the University Rectorate was bombed; there were no injuries.

Academic freedom also was threatened at the primary and secondary school levels by an October 2000 decree from the Ministry of Education, Culture, and Sports which, under the guise of improving public education, would create itinerant school supervisors named by the Ministry. These supervisors would have powers to inspect any school, public or private, and to remove any instructor found deficient in any way, including ideologically. Opposition to the decree arose in February, led by middle-class parents, teachers' groups, church officials, and academics who expressed concern that Decree 1011 was designed to ensure ideological brainwashing. The Minister of Education, Culture, and Sports hesitated over whether the Decree applied to private institutions as well as public schools and finally decided that it did not—thereby putting the Minister at variance with President Chavez. A subsequent press release from the Ministry of Education, Culture, and Sports cautiously stated that the decree could be applied properly only to those schools receiving public funds.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms of peaceful assembly and association, and the Government generally respects these rights in practice. Public meetings, including those of all political parties, generally are held unimpeded. The Government requires permits for public marches but does not deny them for political reasons.

The Constitution prohibits the use of firearms to control peaceful demonstrations. According to PROVEA, 1 person was killed and 93 were injured during demonstrations from October 2000 through September, compared with 139 persons injured from October 1999 through September 2000.

Authorities use firearms, tear gas, and billy clubs against demonstrators. Metropolitan Police used tear gas against pro-Chavez protesters confronting anti-Chavez demonstrators at the National Assembly on November 22 and against marchers in a similar confrontation on December 7 (see Section 1.c.). There were no reports of excessive use of force in these incidents.

Professional and academic associations generally operate without interference; however, in November 2000, the Supreme Court ruled that: (1) NGO's that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent Venezuelan citizens in court or bring their own legal actions; (2) Religious organizations are not part of civil society and are subject to the same restrictions; and (3) The Government has an obligation to ensure that NGO's are "democratic in nature" and therefore the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the National Electoral Council. While there was no definition as of year's end as to how the ruling is to be implemented, human rights NGO's (see Section 4), labor unions (see Section 6.a.), and other members of civil society continued to express serious concerns about the ruling.

c. Freedom of Religion.—The Constitution provides for freedom of religion, on the condition that the practice of a religion not violate public morality, decency, or the public order, and the Government generally respects this right in practice.

In 1964 the Government and the Holy See signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Church, including to its social programs and schools. Other religious groups are free to establish and run their own schools, but they do not receive subsidies from the Government.

Each local religious group must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice in order to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups have complained that the process of registration is slow and inefficient. Foreign missionaries require a special visa obtained through the Ministry to enter the country. Missionaries are not refused entry generally, but many complain that due to general bureaucratic inefficiency the Government often takes months or years to process a request.

In a statement released on January 13, the Catholic Church expressed concern that a new program for government-provided itinerant school supervisors could, in theory, become involved in the operation of private religious schools, under the provisions of an October 2000 decree by the Ministry of Education, Culture and Sports (see Section 2.a.). However, as of December, this decree had no impact on the operation of private religious schools.

In May representatives of the Roman Catholic, Anglican, and other Protestant Churches rejected participation in the "Interreligious Parliament of the Bolivarian Republic of Venezuela," a Government-organized group of religious organizations whose stated purpose is to coordinate their social welfare programs. In a statement released on May 10, the Catholic Church expressed concerns for its autonomy and asserted that the Interreligious Parliament appeared to be an effort to centralize unduly the social work of the country's churches and religions.

In November 2000, as part of a broader ruling on whether certain entities qualify as members of the Government's definition of civil society (see Section 2.b.), the Supreme Court ruled that religious organizations are not part of civil society and that as such they may not represent Venezuelan citizens in court nor bring their own legal actions. However, as of December, this ruling had no impact on religious activities.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right of citizens and legal residents to travel within the country and to go abroad and return, and the Government generally respects these rights in practice. However, the Government can suspend the freedom to travel. The Government also restricts foreign travel for persons being investigated for criminal activities. The Government requires Venezuelan citizens and foreigners resident in the country who are departing the country with minors to present to immigration officials proof of authorization from the minors' parents.

There is still a large population of internally displaced persons following the floods of December 1999. According to official figures, more than 250,000 persons lost their homes in the flooding and mudslides.

The Constitution recognizes and provides for the right to asylum and refuge, and in August the National Assembly approved a law on refuge and asylum. Both the Constitution and this law are in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The law is designed to expand the legal rights of refugees, contains a broad definition of the conditions that would enti-

tle individuals to refugee status, commits the Government to an active role in providing humanitarian assistance to refugees, and creates an institutional body to make refugee and asylum status determinations. Human rights groups welcomed the passage of the law but expressed concern at the absence of implementing regulations and training for border officials. In August President Chavez inaugurated a new office of the U.N. High Commissioner for Refugees (UNHCR) in San Cristobal, Tachira state.

Prior to the enactment of the August law on refuge and asylum, there was no domestic legislation regarding the determination of refugee status or the procedures or criteria to be applied, and no independent organization to handle asylum requests existed. In 1999 the Government established an Interministerial Technical Commission to address cross-border movements and allow the Venezuelan Bishops' Conference to coordinate with UNHCR in assisting refugees; however, this Commission did not function in 2000 or 2001. As of December, approximately 200 persons in the country had been granted refugee status and roughly 200 additional refugee claims were pending before the Government.

In theory the Government provides first asylum. However, in January the Government denied the existence of all but a small number of 700 Colombians who crossed the Rio de Oro river into Zulia state and claimed to be fleeing paramilitary incursions near La Cooperativa and La Pista in Colombia's Norte de Santander department. The Government also refused to send the fact-finding mission that it customarily had undertaken with UNHCR when refugee influxes were reported. It called the Colombians whose presence it did acknowledge "displaced persons in transit"—a term that does not exist in international humanitarian law. Nine individuals from the Colombian group were hospitalized, including two pregnant women and six children in the town of Machiques. However, they were returned to Colombia following their treatment, and it was unclear whether their return was voluntary. None of the 800 Colombians was given the opportunity to apply for refugee status.

In October the Government provided shelter and assistance to a group of approximately 160 Colombians that fled temporarily into Amazonas state due to a FARC attack. Four injured individuals were taken to a local hospital. The Colombians returned home voluntarily.

There were no other reports of forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. Political parties organize, and their candidates are allowed freely to run for office and to campaign. The President has extensive powers, and the legislature appoints the members of the Supreme Court, the CNE, and the Citizen Power consisting of the Ombudsman, Public Prosecutor, and Controller General.

Following President Chavez's initial election to the Presidency in 1998, elections were held in 1999 for a National Constituent Assembly (ANC), which drafted and submitted to a popular referendum and approval a new Constitution, which went into effect on December 30, 1999. The Constitution replaced the previous bicameral legislature with a unicameral National Assembly. The ANC also decreed new general elections.

Elections for every public office in the country were scheduled by the CNE for May 28, 2000; more than 35,000 candidates ran for some 6,000 offices. However, as the date approached, it became apparent that the CNE had failed to organize the elections adequately, primarily due to constant changes to the voter database which both NGO's and political opponents of President Chavez alleged offered electoral advantage to Chavez's supporters. Faced with the prospect of a chaotic and contested election, the CNE decided at the last minute to serve as a friend of the court in a pending suit by two NGO's before the Supreme Court seeking delay of the election. On May 25, 2000, the Supreme Court ordered the delay and gave the Controller General oversight powers over the CNE. A "national roundtable" then chose a new National Electoral Council, which included nonpartisan civil society members.

The new CNE chose July 30, 2000, as the new date for elections and decided that, for practical reasons, these elections would be limited to the presidency, national and state legislatures, governorships, and mayorships, with election of municipal and parish councils to be held October 1. Most observers, including many members of the opposition and media, generally regarded these decisions as valid. However,

leading presidential challenger Francisco Arias Cardenas criticized the decision to split the elections, alleging that this put him at a disadvantage.

On July 30, 2000, in voting that observers from the Organization of American States and various countries judged to be generally free and fair, voters elected President Chavez again, with 59 percent of the vote. Chavez's supporters won a majority (92 seats) in the 165-seat National Assembly. His supporters also won half the governorships. There were technical irregularities, as a limited number of voting machines failed to accept ballots or otherwise broke down, and there was disorganization at some polling places. However, standard backup procedures for voting machine failure were generally followed. Still, some of the losing candidates alleged fraud. For example, Arias Cardenas maintained that voting machines were programmed to undercount votes for him. Losing candidates for several governorships alleged that fraud or irregularities affected the outcome of the voting. As a result, the CNE conducted audits of election results in the states of Amazonas, Guarico, Merida, Tachira and Zulia. It ordered recounts or partial revotes in some cases. In Amazonas state, following a recount of all votes for governor, the CNE reversed the results of the governor's race, announcing on October 10, 2000, that Liborio Guarulla of the Popular Workers' Party (PPT) party had defeated Bernabe Gutierrez of the Democratic Action (AD) party by 10,971 votes to 10,534. Gutierrez called the CNE decision "arbitrary and unjust" but relinquished the governorship peacefully.

In November 2000, the National Assembly passed an "enabling law" that gave President Chavez the authority to legislate by decree on selected issues related to the economy, reorganization of government ministries, and crime. In November 49 laws were passed under these special decree powers, which generated much public controversy and led in December to a national work stoppage organized in protest by both the main business organization (Fedecamaras) and the main labor confederation, the Confederation of Venezuelan Workers (CTV) (see Section 6.a.).

In December 2000, the National Assembly appointed members of the Supreme Court and the Citizen Power in a process that was criticized by the political opposition, the media, and NGO's as unconstitutional. These groups argued that the procedures set forth in the 1999 Constitution regarding civil society participation in the selection process were not followed. The outgoing Ombudsman and others challenged the selection procedure but lost the appeal.

Women and minorities participate fully in government and politics; however, their percentage in senior leadership positions and national elective offices does not correspond to their percentages of the population. The National Assembly's Family, Women, and Youth Committee promotes political opportunities for women. In the July 2000 elections, women won 20 seats in the 165-seat Assembly. There are 4 women in President Chavez's 14-member Cabinet. In December 2000, President Chavez appointed Adina Bastidas as Vice President.

Indigenous people traditionally have not been integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The 1999 Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the July 2000 election. There are no indigenous members in the Cabinet.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of independent domestic and international human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are occasionally responsive to their views. However, NGO's expressed concern about a November 2000 Supreme Court ruling that NGO's that receive funding from foreign governments or whose leaders are not Venezuelan are not part of civil society, and therefore that such NGO's may not represent Venezuelans in court or bring their own legal actions, and that NGO's are subject to government regulation of their internal leadership selection should they be found to be "undemocratic in nature" (see Section 2.b.).

In June DISIP agents visited the office of the NGO Fraternal Association and Active Orientation (AFOA) in Bolivar state. The agents questioned AFOA members regarding the nationality of the group's leadership and its sources of funding. They also announced their intention to visit other NGO's in the state. The NGO umbrella organization Foro por la Vida publicly criticized DISIP's actions, and no additional DISIP visits had occurred by year's end.

On March 16, the Foreign Ministry sent the NGO Citizen's Action Against AIDS (ACCSI), an AIDS issues group, a communication citing the Supreme Court's 2000 ruling and informing the group that it was not entitled to government funding to attend a U.N.-organized AIDS event in New York because one of its senior staff

members is not a citizen. Human rights groups expressed concern regarding the incident; however, ACCSI was not prohibited from traveling to the event using its own funding, and its members attended without incident.

There were press reports in May that an internal report prepared by the Unified Command of the Armed Forces falsely described unnamed NGO's operating in states bordering Colombia as having ties to Colombian guerrillas. Citing confidentiality regulations, the armed forces declined to respond to the request from concerned NGO's to release the report publicly.

In January 2000, President Chavez criticized a PROVEA report on the December 1999 human rights violations in Vargas state (see Sections 1.b., 1.c., and 1.d.) as "suspicious and superficial" and said that the NGO's refusal to name the witnesses on whom the report was based was irresponsible. The President later pledged to investigate the abuses and met with the victims' families, and the Government invited the IACHR to make an on-site visit. However, the Government postponed this visit twice, and at year's end it still had not taken place.

The "Defender of the People," or Ombudsman, is responsible for compelling the Government to adhere to the Constitution and laws and, together with the Public Prosecutor and Controller General, makes up the Citizen Power branch of government. Throughout 2000 the country's first Ombudsman, Dilia Parra, repeatedly and openly advocated for the respect of human rights and assisted investigations of abuses by acting as a liaison between complainants and the Public Prosecutor. In December 2000, in a process that human rights organizations charged was unconstitutional, the National Assembly named attorney German Mundarain as the new Ombudsman (see Section 3). Since his appointment, Mundarain has used his position to urge broad consensus on human rights issues. However, human rights NGO's claimed that the Ombudsman's office had taken action on only 20 percent of cases presented to it.

Human rights groups remained concerned about the Chavez administration's lack of a human rights agenda and lack of support for the national human rights agenda formulated by the previous Government in a 1997 symposium with NGO's. There have been no meetings between President Chavez and NGO's to discuss human rights issues since 1999. The Government also continued to fail to support the National Human Rights Commission created by former President Rafael Caldera in 1996 as a mechanism to coordinate the Government's human rights programs and to serve as a forum for dialog with NGO's. The Commission appears to be moribund. However, NGO's have developed relationships with specific government bodies such as the Ministry of Education (to develop educational materials on human rights), the Foreign Ministry (to discuss the resolution of existing human rights cases against the Government in international courts), and the National Assembly (to discuss proposed legislation affecting human rights).

At an August 9 meeting with indigenous representatives, Vice President Adina Bastidas announced the creation of a Presidential Commission for Assistance to Indigenous Peoples. This body is headed by the Vice President and includes representatives of the Ministries of Defense; Environment; Health and Social Development; Planning; Energy and Mines; Education, Culture, and Sports; and major state-owned company Corporacion Venezolana de Guyana. There were no reports of its activities.

The Defense Ministry's human rights office continued to conduct courses as part of the armed forces' training curriculum. Human rights NGO's complained that the Ministry still rejected the validity of their reports of alleged human rights violations by the armed forces and remained unwilling to provide evidence to refute the charges, citing confidentiality regulations.

Following the July 2000 elections, the National Assembly established an Interior, Justice, Human Rights, and Constitutional Guarantees Committee. The Constitution also obliges the Government to make amends to the victims of human rights violations and commits it to implement decisions of international bodies on individual cases of abuse. However, the Government moved extremely slowly on high-profile human rights cases being processed within the country and in the inter-American human rights system (see Sections 1.a. and 1.b.).

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution expressly prohibits discrimination on the basis of politics, age, race, sex, creed, or any other condition, and the law prohibits discrimination based on ethnic origin, sex, or disability. However, the Government did not protect women adequately against societal and domestic violence and did not ensure the disabled access to jobs and public services, nor safeguard adequately the rights of indigenous people during the year.

There have been no new developments in the case reported by Amnesty International in 2000 that police in Valencia, Carabobo state detained four transgendered persons and held them incommunicado for 2 days without food or drinking water in September 2000 (see Section 1.d.). The family of one of the detainees filed a formal complaint with the Public Ministry.

Women.—Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence during the year. Domestic violence against women was very common and was aggravated by the country's economic difficulties. A total of 14,683 cases of domestic violence were reported to the authorities in 1997, the most recent year for which statistics are available. Many domestic violence cases are not reported to the police. The police generally are unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse, according to local monitors. In addition, poor women generally are unaware of legal remedies and have little access to them. In January 2000, the 1999 Law Against Violence Toward Women and Children came into force, and the PTJ opened a division against violence in 2000 to accommodate its provisions. This law requires the police to report on domestic violence and obligates hospital personnel to advise the authorities of cases of abuse.

Under the existing law, rape is extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the crime. A provision in the Penal Code provides that an adult man guilty of raping an adult woman with whom he is acquainted can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to assist rape victims. In 1997, the most recent year for which statistics were available, the police received 7,426 reports of sexual crimes, of which over 3,600 were cases of rape. However, women's organizations assert that these figures are low and do not portray accurately the problem of rape and sexual assault. They claim that many victims do not report the incident or press charges due to societal pressure and their own feelings of guilt.

There were reports that women were trafficked to Spain for purposes of prostitution (see Section 6.f.).

Sexual harassment in the workplace is a common problem but is not a criminal offense.

During the year, the National Institute for Women (formerly the National Women's Council)—an agency of the Presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor—designed two programs that are aimed at assisting women in need and enhancing the economic independence of women. The first is the "Women's Bank," a lending institution inaugurated by President Chavez on September 13 that is designed to provide small-scale financing to micro-enterprises run by women. The second is the Women's Shelters Program, a series of centers being built to receive, care for, and rehabilitate women in distress.

As of August, 56 women were in training at the Army's military academy. This is a result of the Government's June 2000 decision to allow women to attend military academies and serve in expanded roles as officers in the armed forces. Women account for roughly half the student body of most universities and have advanced in many professions, including medicine and law. Women gradually have surmounted many of the barriers to their full participation in political and economic life; nonetheless, they still are underrepresented in leadership positions and, on average, earn 30 percent less than men. Women and men are legally equal in marriage.

The Constitution provides for sexual equality in exercising the right to work. The 1990 Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for 1 year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the CTV, the country's major labor federation, these regulations are enforced in the formal sector, although social security payments often are delayed.

There are a number of NGO's concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups have not been implemented widely by the police or other concerned government agencies.

Children.—In April 2000, the National Assembly passed the Organic Procedural Law on Adolescents and Children; however, observers expressed concern over the slow implementation of the law's provisions. Government expenditures on education, health, and social services continued to increase during the year due to an improving economy and a larger government budget. Approximately one-third of the Ministry of Education budget was dedicated to post-secondary education, leaving both primary and secondary education chronically underfunded. According to the Con-

stitution, the State is to provide free education up to the university-preparatory level (15 or 16 years old) and the law provides for universal, compulsory, and free education; however, according to UNICEF, only 75 percent of eligible children enter the first grade, and an estimated 64 percent of children leave school before the 9th grade.

In addition, 500,000 children are not eligible to receive government assistance, including public education, because their births are not documented properly, according to the 2000 annual report of the NGO Community Centers for Learning (CECODAP). A 1998 government regulation requires hospitals to register the births of all children, but a Government program of sending teams into poor neighborhoods to register minors has been discontinued. Many children remain undocumented.

According to CECODAP's 2000 study, an estimated 500,000 children, most under the age of 5, have an average of 2 episodes of gastroenteritis a year, a sickness that is the ninth leading cause of death in the country. According to a 1999 study by the National Nutrition Institute, 23 percent of children under the age of 15 have a nutritional deficit. Approximately 76 percent of minors live in poverty. Substandard conditions contribute to the increase in preventable diseases that are leading causes of infant mortality. Sanitation and schooling conditions for children in Vargas state continue to suffer heavily from effects of the December 1999 flooding there.

Increasing poverty has raised the level of stress within families and led to a rise in the number of abandoned children and to more child abuse. Fears of entanglement with the authorities and societal ingrained attitudes regarding family privacy lead to underreporting of child abuse. The judicial system, although slow, ensures that in most situations children are removed from abusive households once a case has been reported. However, public facilities for such children are inadequate and have poorly trained staff.

There were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids (see Section 6.f.).

Child labor is a problem (see Section 6.c.).

A 1994 survey by the National Institute for Minors determined that 206,000 children were involved in illicit activities, principally begging but also petty theft, prostitution, and drug trafficking and that some 40,000 children were exploited sexually.

The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by continuing to impose curfews for unsupervised minors. Children's rights advocates claim that curfews permit the police to act arbitrarily and detain persons who have committed no crime. Because reform institutions are filled to capacity, hundreds of children accused of infractions, such as curfew violations, are confined in juvenile detention centers (see Section 1.c.).

Children's rights advocates continued to criticize the Government's lack of success in reuniting children and parents who were separated in the flooding in Vargas state in 1999. At year's end, 2 years after the natural disaster, some children still were separated from their families and some may have died in the flooding, although CECODAP estimated that at the end of 2000 there were 120 children in shelters who had not yet been returned to their families. The Ombudsman's office continued to investigate whether some of these children may have been trafficked (see Section 6.f.).

Persons with Disabilities.—Persons with disabilities have minimal access to public transportation, and ramps are practically nonexistent, even in government buildings. According to local advocates, persons with disabilities are discriminated against in many sectors, including education, health care, and employment.

A comprehensive 1993 law to protect the rights of persons with disabilities requires that all newly constructed or renovated public parks and buildings provide access. The law also forbids discrimination in employment practices and in the provision of public services. However, the Government has not made a significant effort to implement the law, to inform the public of it, or to try to change societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental illness.

Indigenous People.—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffer from inattention to and violation of their rights. There are approximately 316,000 indigenous people in 27 ethnic groups. Many indigenous people are isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plague their communities.

The Constitution created three seats in the National Assembly for indigenous people and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless local political authori-

ties seldom take account of the interests of indigenous people when making decisions affecting their lands, cultures, and traditions, or the allocation of natural resources. As farmers and miners intrude on their habitats, indigenous communities face deforestation and water pollution. Few indigenous persons hold title to their land, but many do not want to because most indigenous groups reject the concept of individual property. Instead they call on the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

On August 9, at a meeting with indigenous representatives, Vice President Adina Bastidas announced the creation of a Presidential Commission for Assistance to Indigenous Peoples (see Section 4).

On April 17, a member of the Bare indigenous people in Amazonas state was left paralyzed when he was shot without provocation by a member of the National Guard, according to indigenous groups in the state (see Section 1.c.). These groups also allege that members of the National Guard, which controls the sale of gasoline in the state, withhold gasoline supplies and sell them at inflated prices to indigenous persons who require gasoline to operate their boats along the state's rivers.

On July 16, four members of the Pume indigenous people in Apure state were killed during an apparent effort to take control of the land they occupied, according to a Pume witness. The family of four—Cruz (age 50), Lorenzo (age 28), Ana Maria (age 25), and Rosa Maria Flores (age 9)—had returned from a hunting expedition and were eating when a group of eight nonindigenous persons armed with machetes and firearms attacked them. As of August, two persons had been arrested in connection with the killings.

In Bolivar state, the Pemon indigenous people remain highly skeptical of the Government's willingness and ability to comply with its pledges related to the completion of power lines through the Canaima National Park. In July 2000, a total of 55 of the 58 Pemon communities affected by the power lines signed an agreement with the Government that pledged to establish a commission for the demarcation of native lands and to create a development fund for indigenous people. The Government also promised not to undertake any further large infrastructure projects affecting the Pemon without consultation.

At year's end, the Government still had taken no action on President Chavez's 1999 pledge to enact a new law to regulate the use of the Imataca forest reserve in Bolivar state and annul a 1997 Presidential decree permitting the expansion of legal mining activities there. In 1998 the Supreme Court ruled against a lawsuit filed by environmental and indigenous organizations challenging the 1997 decree. The groups had charged that only the legislature may alter the nature of the reserve; that the public review process prior to the change was inadequate; and that expanded mining activities would affect adversely the health of the Warao, Arawako, Karina, Akawaio, and Pemon indigenous communities that inhabit the Imataca watershed area.

The Yanomami, among the most isolated of the indigenous people, have been subjected to persistent incursions into their territory by illegal gold miners, who have introduced both diseases and social ills. In 1996 a number of human rights organizations, acting on behalf of the Yanomami community of Haximu, petitioned the IACHR in connection with the 1993 massacre of 16 members of the community by Brazilian miners. The petition alleged that the Government failed in its obligation to protect the Yanomami and to seek appropriate punishment of the killers, who were released by the Brazilian authorities after 3 months' detention. In 1998 the Government agreed to work with the NGO's under IACHR mediation to resolve the case. In late 1999, in an out-of-court settlement the Government pledged, among other commitments, to provide better security and to carry out health care projects in the area. That settlement is being implemented.

Members of the Warao indigenous group of Delta Amacuro state continued to migrate during the year from their homelands in the swampy Orinoco delta to Caracas, where they live in the streets, selling handicrafts and begging. The Warao claim that flooding and petroleum exploration have eroded their traditional means of survival: fishing and horticulture. In addition, many Warao no longer want, or no longer possess, the knowledge required to survive in their traditional manner. However, the Caracas city government and the Metropolitan Police maintained a policy of forcing the Warao to return to the delta by rounding them up and loading them onto buses. In 1998, the last year for which estimates are available, they returned at least 15 groups averaging 100 Warao each. Many of the Warao nevertheless return to Caracas, citing lack of jobs and money in the delta and their ability to earn approximately \$175 (130,000 bolivars) per week in handouts in Caracas.

Section 6. Worker Rights

a. The Right of Association.—Both the Constitution and the 1990 Labor Code recognize and encourage the right of workers to organize; however, concerns over labor rights continued during the year. According to the Constitution, all workers, without prejudice or need of previous authorization, have the right to form freely unions that they believe can help them defend their rights and interests, as well as the right to join—or refrain from joining—these organizations. The existing comprehensive 1990 Labor Code extends the right to form and join unions of their choosing to all private and public sector employees, except members of the armed forces. The Constitution provides that labor organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Labor organizers and leaders may not be removed from their positions during the period of time or under the conditions in which they exercise their leadership functions. However, Articles 23 and 95 of the Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the National Electoral Council the authority to administer the labor confederations. During the year, the ILO's Committee on Freedom of Association recommended that the Government take measures to repeal or amend the trade union standards and decrees that are in violation of Conventions 87 and 98.

The ILO repeatedly expressed concerns that the 1990 Labor Code violates freedom of association by requiring a high number of workers (100 workers) to form self-employed workers' trade unions and a high number of employers to form employer trade unions (10 employers). The ILO also notes that the long and detailed list of duties assigned to workers' and employers' organizations and the requirement that foreign workers must be resident in the country for more than 10 years in order to hold trade union offices also violate the ILO Convention on Freedom of Association.

About 10 percent of the 10-million-member national labor force is unionized. One major union confederation (the CTV), three small union confederations, and a number of independent unions operate freely. The CTV represents most of the unionized workers and is especially strong in the public sector; its membership is approximately 800,000 workers. The CTV's top leadership includes members of several political parties, but the majority are affiliated with one of the traditional parties, Democratic Action or the Christian Democrats (COPEI). The CTV and the AD traditionally have influenced each other. The Bolivarian Workers Force (FBT), which was created to be a new labor confederation allied with the Chavez Government, is attempting to organize unions within the CTV and participated in the CTV internal elections.

In December 2000, after the Government held a public "workers referendum," the leaders of the CTV resigned and, during the year, elections were held to choose new union leaders.

In January an ILO delegation made the first of several trips to consult with the National Assembly on the development of a new labor law pursuant to the 1999 Constitution and also played an instrumental consultative role in overseeing the labor sector's multiunion dialog. This dialog on labor reform occurred among the country's unions, between independent organized labor and the Government, and between the Government and the ILO. The ILO also consulted regularly with government authorities on the labor reform process leading to individual union and federation leadership elections, and national-level CTV leadership elections. The CTV often accused the Government of interfering in its internal elections, and in March the ILO urged the Government to cease its harassment of the CTV, and to ensure that the authorities refrained from interference in the trade union electoral process. The ILO urged the Government to refrain from displaying favoritism with regard to the FBT and to abandon the idea of imposing trade union unity.

Throughout the year, the ILO also repeatedly expressed to the Government its objection to the 1999 Constitution's requirement that CNE administer labor leadership elections, which the ILO believes violates Convention 87 (freedom of association) of the ILO Charter. However, in practice CNE authorities took a broad interpretation of the requirement, allowing the individual union and federation elections to proceed uninterrupted under the authority of the CTV, and generally limiting its activities to an advisory role. Some 3,600 individual unions and 25 federations held their leadership elections between July and September. Although labor law pursuant to the 1999 Constitution remained pending at year's end, these elections marked a change from indirect to direct election of labor leaders. Despite accusations of fraud, the elections were held with few violent incidents, and most observers regarded this experiment in direct election of labor leaders as a success.

On October 23, the CTV held internal elections and on November 18, the CTV's electoral commission proclaimed Carlos Ortega the winner with about 57 percent of

the vote. A number of independent monitors observed the elections; however, both sides lodged numerous protests of fraud. The Chavez Government, which had endorsed a FBT candidate, Artistobulo Isturiz, claimed that massive fraud had decided the election and refused to recognize Ortega as the winner; however, Ortega assumed the presidency of the CTV despite a threat by the Government to disqualify his election.

In March 2000, the National Legislative Committee (CLN) passed a decree that suspended collective bargaining in the petroleum and public sector for 180 days and suspended internal labor leadership elections for the same period of time. In March 2000, the CLN passed a decree that violated the Campesino Federation's right to associate freely by intervening in the federation's right to hold internal elections, embargoing federation property, and placing it in the custody of the national Ombudsman. The CNE eventually permitted elections, which were held in October.

The Labor Code mandates registration of unions with the Ministry of Labor, but it limits the Ministry's discretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and membership list) are submitted. Only a judge may dissolve a union, and only for reasons listed in the law, such as the dissolution of a firm by agreement of two-thirds of the membership.

The Constitution and the 1990 Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by labor law. However, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers are not permitted during legal strikes. The 1990 Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population." During the year, most strikes were brief and occurred among government employees such as petroleum workers, health workers in public hospitals and clinics, firefighters, teachers, and transportation workers.

In March FEDEPETROL, the country's largest petroleum worker union called a 48-hour strike. According to international labor authorities, approximately 65 percent of the workers participated. Ministry of Labor officials declared the action illegal. The strike was called by union leaders to force the Government to provide petroleum workers an equivalent 15 percent wage increase that had been granted to all private sector employees in 2000. The Government negotiated a settlement agreeable to the union. In December the CTV and the main business organization organized a national work stoppage to protest the President's use of legislation by decree (see Section 3).

There are no restrictions on affiliation with international labor organizations, and many union organizations are active internationally; however, a November 2000 Supreme Court ruling regarding the legal rights of NGO's that receive funding from foreign sources has the potential to restrict the international affiliations of union organizers (see Section 2.b.).

b. The Right to Organize and Bargain Collectively.—According to the Constitution, all public and private sector workers have the right to voluntary collective bargaining and to arrive at collective bargaining agreements, without any additional requirements other than those established by the law. The Constitution provides that the Government is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the resolution of labor conflicts. The 1990 Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly expressed concerns that this provision restricts freedom of association and in March 2000 requested that the Government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members." The code contains a provision stating that wages may be raised by administrative decree, provided that the legislature approves the decree.

The law also prohibits employers from interfering in the formation of unions or in their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The Constitution prohibits measures that "alter the sanctity and progressiveness" of labor rights and worker benefits, declares labor rights to be irrevocable, and provides that ambiguities regarding the application or interpretation of norms are to be applied in the manner most favorable to the worker.

Ministry of Labor inspectors hear complaints regarding violations of these regulations and traditionally have been able to impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the Constitution, union officials have special protection from dismissal. Under the 1990 Labor Code, if a judge deter-

mines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to the worker's seniority.

Labor law and practice are the same in the sole export processing zone, located in Punto Fijo, Falcon state, as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor.—The 1990 Labor Code states that no one may “obligate others to work against their will,” and such practices generally are not known to occur, although trafficking in women is a problem (see Section 6.f.). Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, and such practices generally are not known to occur; however, there were reports of trafficking in children for employment purposes (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The 1990 Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but less so in the informal sector, in which an estimated 1.2 million children work. According to UNICEF, approximately 47 percent of children are in the labor market, and they work in agriculture, as artisans, in offices, and in the services sector.

In a 1996 survey of working children conducted by the National Institute for Minors, 45 percent of those polled stated that they were not in school. The actual figure is probably much higher, considering that those who stated that they attended school also reported that they worked on average 7½ hours per day, 4 to 7 days per week.

The 1990 Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission. It states that children between the ages of 14 and 16 may not work without the permission of their legal guardians. Minors may not work in mines or smelting factories; in occupations that risk life or health, or could damage intellectual or moral development; or in public spectacles. The Constitution prohibits adolescents from working in jobs that will affect their development.

Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. The estimated 1.2 million children who work in the informal sector, mostly as street vendors, generally work more hours than the total permitted under the law. In the 1996 National Institute for Minors survey of working children, half of the children worked both morning and afternoon, and 64.5 percent worked 6 or 7 days a week. The Government's Central Office of Statistics and Information reports that 12 percent of the country's children between the ages of 10 and 17 are working, have worked at some time, or are seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. Less than 300,000 of children who work in the informal sector have permits.

Apart from the general prohibition of compulsory labor, the law does not specifically prohibit forced and bonded labor by children, but such practices generally are not known to occur; however, there were reports of trafficking in children for employment purposes (see Section 6.f.).

e. Acceptable Conditions of Work.—The Constitution provides workers with the right to a salary that is sufficient to allow them to live with dignity, and provides them and their families with the right to basic material, social, and intellectual necessities; however, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. The Constitution obliges the State to provide public and private sector workers with an annually adjusted minimum wage, using the cost of the basic basket of necessities as a reference point. Under the 1990 Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. In July President Chavez announced that the Government would raise the minimum wage for public and private employees by 10 percent. Following the increase, which went into effect on July 12, the monthly minimum wage is \$220 (165,000 bolivars) in the private sector for urban workers, \$200 (150,000 bolivars) for employees of small and medium-sized companies, and \$198 (148,500 bolivars) for rural workers. The increase applied only to those already earning the minimum wage—about 15 percent of the labor force. Total take-home pay in the private sector, the product of a presidential decree, was at least equal to that received by public sector minimum wage workers. Fringe benefits that are added to these minimum figures generally increase wages by about one-third. However, even with these benefits, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. Unions note that a worker's income is often less than the cost of basic monthly food a family

of five, estimated by the Government's Central Office of Statistics and Information during the year at \$205 (153,750 bolivars). The basic basket, which includes medical care, transportation, clothing, and housing, in addition to food, totaled \$833 (625,000 bolivars) for August 2000. The Ministry of Labor has enforced minimum wage rates effectively in the formal sector of the economy, but about one-half of the population works in the informal sector where labor laws and protections generally are not enforced.

The Constitution stipulates that the workday may not exceed 8 hours daily or 44 hours weekly and that night work may not exceed 7 hours daily or 35 hours weekly. Managers are prohibited from obligating employees to work additional overtime, and workers have the right to weekly time away from work and annual paid vacations. Some unions, such as the petroleum workers' union, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The Ministry of Labor effectively enforces these standards in the formal sector.

The Constitution provides for secure, hygienic, and adequate working conditions; however, the authorities by year's end had not promulgated regulations to implement the 1986 Health and Safety Law, which is not enforced. The delay is due largely to concern that the law provides penal sanctions against management when violations of health and safety occur and that there is ambiguity in the law over what constitutes a violation. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

The Code also requires that workplaces maintain "sufficient protection for health and life against sickness and accidents," and it imposes fines ranging from one-quarter to twice the minimum monthly salary for first infractions. However, in practice Ministry of Labor inspectors seldom close unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. Trafficking in Persons.—The Constitution prohibits trafficking in persons; however, there is no implementing law specifically for prosecution of all forms of trafficking in persons, and trafficking is a problem. Trafficking may be prosecuted under laws against forced disappearance and kidnaping (punishable by 2 to 4 years' imprisonment) and, in the case of children, under the 2000 Organic Law to Protect Children and Adolescents (which carries a penalty of 1 to 10 months in jail for trafficking in children). There were reports that Venezuela was a source, destination and transit country for trafficked men, women, and children during the year. However, no figures are available from either government or NGO sources, and it is difficult to gauge the extent of the problem; the authorities show little awareness of the problem. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent Venezuelan passports, identity cards, and birth certificates are obtained create favorable conditions for trafficking. However, there were no reports or evidence of involvement in trafficking by government officials, and the Government took steps this year to reduce corruption among immigration officials by replacing immigration inspectors at the Simon Bolivar International Airport in Maiquetia.

There were reports that women were trafficked to Spain for purposes of prostitution. There were also reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids (see Section 5). Chinese nationals trafficked to the United States via countries bordering Venezuela transit the country. The Ombudsman's office continues to investigate whether some of the children separated from their parents in the December 1999 flooding in Vargas state may have been trafficked (see Section 5). It also is believed widely that young women are lured from rural areas to urban centers by misleading newspaper advertisements promising domestic or other employment and educational opportunities; they then become victims of sexual exploitation. Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly are behind some of these trafficking activities.

The Government did not prosecute any individuals for trafficking in persons during the year. Government efforts to prevent and prosecute trafficking, which are rare, are the responsibility of the Public Prosecutor's Family Protection Directorate and the National Institutes for Women and Minors. Female victims of trafficking have recourse to the Government's national system of women's shelters (see Section 5). NGO's such as CECODAP and the Coalition Against Trafficking in Women also are involved in activities to combat trafficking. There are no efforts or surveys planned or underway to document the extent and nature of trafficking in the coun-

try. However, in January the Government did provide some assistance to apparent victims of trafficking from various West African countries who landed on the coast of Sucre state. The group claimed that it had been abandoned at sea by a Turkish cargo ship that, for a fee, had brought them from Africa to find work in an undetermined country.